

# **EXHIBIT 7**

## **RYAN GILE DEPOSITION TRANSCRIPT**

RYAN GILE

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<p style="text-align: center;">Page 1</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION</p> <hr/> <p>WACKER NEUSON PRODUCTION AMERICAS, LLC, a Wisconsin limited liability company,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs. Case No.: 1:19-CV-00018-JTN-ESC</p> <p>CITY OF NORTON SHORES, a Michigan Municipal Corporation,</p> <p style="text-align: center;">Defendant.</p> <hr/> <p style="text-align: center;">Deposition of RYAN GILE Wednesday, November 20, 2019 10:25 a.m. At Wacker Neuson Production Americas, LLC N92 W15000 Anthony Avenue Menominee Falls, Wisconsin 53051</p> <p>Reported by Sheila K. Fairchild</p>	<p style="text-align: right;">Page 3</p> <p>231.726.4857</p> <p>KRose@gravislaw.com</p> <p>Appeared on behalf of the Defendant.</p> <p style="text-align: center;">INDEX</p> <table> <tr> <td>Examination by:</td> <td>Page</td> </tr> <tr> <td>Mr. Karafa</td> <td>4</td> </tr> <tr> <td>Mr. Koelzer</td> <td>100</td> </tr> <tr> <td>Mr. Karafa</td> <td>103</td> </tr> </table> <p>(The original transcript was sent to Attorney Karafa.)</p> <p style="text-align: center;">EXHIBITS</p> <table> <tr> <td>No.</td> <td>Page</td> </tr> <tr> <td>1 November 7, 2018 Letter to Mr. Gile re: Revised Invoice</td> <td>27</td> </tr> <tr> <td>2 September 20, 2018 Letter to Ms. Steinbach re: Invoice for tax abatement payments</td> <td>27</td> </tr> <tr> <td>3 Complaint</td> <td>35</td> </tr> <tr> <td>4 Application for Industrial Facilities Tax Exemption Certificate</td> <td>52</td> </tr> <tr> <td>5 Act 198 Agreement</td> <td>52</td> </tr> <tr> <td>6 State of Michigan issuance of IFEC 2008-38</td> <td>52</td> </tr> <tr> <td>7 Act 198 Agreement with City of Norton Shores</td> <td>77</td> </tr> <tr> <td>8 E-mail from Mr. Bergy to Mr. Gile</td> <td>87</td> </tr> <tr> <td>9 E-mail from Ms. Brubaker-Clarke to Ms. Gunia</td> <td>96</td> </tr> </table> <p>(The original exhibits were attached to the original transcript.)</p>	Examination by:	Page	Mr. Karafa	4	Mr. Koelzer	100	Mr. Karafa	103	No.	Page	1 November 7, 2018 Letter to Mr. Gile re: Revised Invoice	27	2 September 20, 2018 Letter to Ms. Steinbach re: Invoice for tax abatement payments	27	3 Complaint	35	4 Application for Industrial Facilities Tax Exemption Certificate	52	5 Act 198 Agreement	52	6 State of Michigan issuance of IFEC 2008-38	52	7 Act 198 Agreement with City of Norton Shores	77	8 E-mail from Mr. Bergy to Mr. Gile	87	9 E-mail from Ms. Brubaker-Clarke to Ms. Gunia	96
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<p style="text-align: right;">Page 2</p> <p>DEPOSITION of RYAN GILE, a witness in the above-entitled action, was taken at the instance of the Defendant, under and pursuant to the provisions of the Federal Rules of Civil Procedure 30(b)(1) and pursuant to notice, before me, SHEILA K. FAIRCHILD, Professional Court Reporter and Notary Public, in and for the State of Wisconsin, at Wacker Neuson, LLC, N92 W15000 Anthony Avenue, Menominee Falls, Wisconsin, on the 20th day of November, 2019, commencing at 10:25 a.m. and concluding at 1:15 p.m.</p> <p>APPEARANCES:</p> <p>VARNUM, LLP</p> <p>JEFFREY D. KOELZER 333 Bridge Street N.W. Grand Rapids, Michigan 49501-0352 616.336.6000 jdkoelzer@varnumlaw.com Appeared on behalf of the Plaintiff.</p> <p>WILLIAMS HUGHES, PLLC</p> <p>JOHN M. KARAFA 120 West Apple Avenue Muskegon, Michigan 49440</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">TRANSCRIPT OF PROCEEDINGS</p> <p>RYAN GILE, called as a witness herein, having been first duly sworn on oath, was examined and testified as follows:</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MR. KARAFA:</p> <p>Q. Would you please state your name?</p> <p>A. Ryan Gile.</p> <p>MR. KARAFA: This is the deposition of Ryan Gile being taken pursuant to notice for all purposes permitted under the court rules in anticipation of trial in this cause.</p> <p>BY MR. KARAFA:</p> <p>Q. Mr. Gile, my name is John Karafa. I represent the City of Norton Shores in this case, for purposes of this deposition anyway. I realize now that you pronounced your name that it's Gile with a hard G instead of a soft G, which is one of the curiosities that I had before coming in. Have you had a deposition taken before?</p> <p>A. No.</p> <p>Q. Have you ever testified as a witness in any court of law?</p> <p>A. No.</p> <p>Q. Or testified as a witness under oath in any proceeding,</p>																												

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<p>1 an examination under oath pursuant to an insurance</p> <p>2 policy or in a state tribunal agency or administrative</p> <p>3 tribunal or anything along those lines?</p> <p>4 A. No.</p> <p>5 Q. So I'm going to state a few of the ground rules for</p> <p>6 purposes of our deposition today. I want to learn some</p> <p>7 information from you and from Wacker Neuson, so I'm</p> <p>8 going to ask you questions, and I'm going to attempt to</p> <p>9 make my questions clear, okay?</p> <p>10 A. Uh-huh, yes.</p> <p>11 Q. If I do that, then what I expect you to do is to answer</p> <p>12 my questions to the best of your ability, all right?</p> <p>13 A. Yes.</p> <p>14 Q. If you do not understand a question that I ask of you</p> <p>15 or any part of the question for any reason, because of</p> <p>16 a word I use or the way I phrase the question or it</p> <p>17 appears to be confusing in one or more ways, which I'm</p> <p>18 certainly capable of doing, then simply don't answer</p> <p>19 the question. Ask me to rephrase it, I'll be happy to</p> <p>20 do so, okay?</p> <p>21 A. Okay.</p> <p>22 Q. The court reporter is here. She has sworn you under</p> <p>23 oath, and she's taking down everything that we say here</p> <p>24 during the course of these proceedings. So it's</p> <p>25 important-- she's very skilled at what she does, but</p>	<p>1 deposition but your house. There's a formality</p> <p>2 attached. There's a court reporter. I've come a long</p> <p>3 way for the deposition. I'm not in any hurry. We'll</p> <p>4 do what we need to do. The point being that while it's</p> <p>5 a formal proceeding, there are some rules that govern</p> <p>6 it. You have counsel here, Mr. Koelzer, and to the</p> <p>7 extent there needs to be a break by the court reporter,</p> <p>8 if she needs a break for something or if you need a</p> <p>9 break, or counsel, for any reason, get some fresh air,</p> <p>10 some water, rest room break, whatever it may be, just</p> <p>11 any case, there's nothing requiring us to sit here for</p> <p>12 some finite period of time before we take a break,</p> <p>13 okay?</p> <p>14 A. Okay.</p> <p>15 Q. Any questions before we proceed?</p> <p>16 A. Nope.</p> <p>17 Q. I just want to get some background information. How</p> <p>18 old are you?</p> <p>19 A. Fifty.</p> <p>20 Q. And you graduated high school, I'm sure?</p> <p>21 A. Yes.</p> <p>22 Q. Where did you graduate high school?</p> <p>23 A. Middleton High School, Wisconsin.</p> <p>24 Q. Did you grow up in Wisconsin?</p> <p>25 A. Yes.</p>
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<p>1 it's important that we not speak over one another. In</p> <p>2 that sense, some of my questions may be very</p> <p>3 predictable as I get along with it, and you may</p> <p>4 anticipate what I'm asking and jump in and answer it</p> <p>5 when I'm not quite finished asking a question. I ask</p> <p>6 you to be patient and wait for me to finish my question</p> <p>7 before you answer it, okay?</p> <p>8 A. Okay.</p> <p>9 Q. I will also wait until you finish your answer before I</p> <p>10 ask another question so that we don't speak over one</p> <p>11 another and the record doesn't get garbled in that</p> <p>12 respect. Another ground rule along those lines is that</p> <p>13 it's important that we speak to and with one another</p> <p>14 and articulate our words and not merely respond to one</p> <p>15 another with nods of the head and those kinds of casual</p> <p>16 gestures which are helpful as we sit across the table</p> <p>17 from one other in a coffee house sense, but it doesn't</p> <p>18 translate on paper very well. So it's important that</p> <p>19 we speak with one another, yes, no and answer the</p> <p>20 questions accordingly, okay?</p> <p>21 A. Okay.</p> <p>22 Q. And we're at your facility here in-- this is Menomonee</p> <p>23 Falls, Wisconsin? Is that where we're at now?</p> <p>24 A. Correct.</p> <p>25 Q. And so it's your show from that standpoint. It's my</p>	<p>1 Q. After high school, did you go on to college?</p> <p>2 A. Yes.</p> <p>3 Q. Did you attain some degrees?</p> <p>4 A. Yes.</p> <p>5 Q. What degrees did you attain?</p> <p>6 A. BBA in accounting and finance.</p> <p>7 Q. What was the acronym you said?</p> <p>8 A. BBA, bachelor's in business administration.</p> <p>9 Q. What facility, institution did you get that from?</p> <p>10 A. University of Wisconsin at Madison.</p> <p>11 Q. What year was that?</p> <p>12 A. 1992.</p> <p>13 Q. Any other college courses after the 1992 bachelor</p> <p>14 degree that you received at University of</p> <p>15 Wisconsin-Madison?</p> <p>16 A. College courses, yes. Degrees, no.</p> <p>17 Q. Okay. What was the-- what additional courses, I guess</p> <p>18 in-- generally, what courses did you take?</p> <p>19 A. Tax probe, tax courses, tax program courses and some</p> <p>20 MBA courses.</p> <p>21 Q. What institution were those taken at?</p> <p>22 A. University of Wisconsin-Milwaukee and Marquette</p> <p>23 University.</p> <p>24 Q. What was the purpose of taking those?</p> <p>25 A. Further understanding.</p>

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<p>1 Q. Were you pursuing additional degrees, a master's, for 2 example, and you just didn't complete the courses? 3 A. No. 4 Q. How many tax courses did you take, for example, if you 5 recall? 6 A. I don't recall. 7 Q. What years did you finalize your continuing interest in 8 those courses, including tax courses and the MBA 9 courses? 10 A. I don't recall. 11 Q. Are you married? 12 A. Yes. 13 Q. And did you live in Michigan for a while? 14 A. No. 15 Q. Have you ever lived in Michigan? 16 A. No. 17 Q. Have you always lived in Wisconsin? 18 A. Yes. 19 Q. Let me ask you about your employment history. Do you 20 want to just give me a chronology of your employment 21 history? 22 A. Coopers and Lybrand Public Accounting, '92 to '95; 23 Rockwell Automation, approximately to 2002 or '03; 24 Magnitech, to somewhere around 2010 or '11, somewhere 25 in there; and then Avrio Technology.</p>	<p>1 title of manager of finance or vice president of 2 finance? 3 A. Yes. 4 Q. Why don't you tell me what the chronology of titles has 5 been since 2013. 6 A. In 2018 I was promoted to chief operating officer for 7 North America. 8 Q. Congratulations. 9 A. Thank you. 10 Q. And that's your current title? 11 A. Correct. 12 Q. Explain, what did you do as manager of finance or vice 13 president of finance from 2013 until 2018? What were 14 your general duties and responsibilities? 15 A. Closing of the general ledger for the operating 16 companies in North America. 17 Q. Closing of the general ledger? 18 A. Yes. 19 Q. What did that involve? 20 A. Booking entries, reviewing entries, making sure 21 expenses are proper, making sure accruals are proper 22 and reviewing new customers, reviewing new lines of 23 business, divestitures of business lines, acquisition 24 of business lines, tax, all of the other. 25 Q. Okay. This is, the facility we're in here, a very</p>
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<p>1 Q. How do you spell that? 2 A. A-V-R-I-O, 2013; since then Wacker Neuson. 3 Q. Avrio Technology, 2013 is when you concluded your 4 employment there? 5 A. Yes. 6 Q. When did you start there, about 2010 or '11? 7 A. Yes, 2012, somewhere in there. 8 Q. So you've been at Wacker-- is it Neuson or Neuson? 9 A. Neuson. 10 Q. So since 2013 at some point in 2013, you've been 11 employed with Wacker Neuson? 12 A. Yes. 13 Q. What position did you hire in at? 14 A. Manager of finance, I think. It might have been vice 15 president of finance. I don't recall. 16 Q. Did you hire in-- what do we call this facility? Is 17 this headquarters? 18 A. No. This is a division of Wacker Neuson S.E. 19 Q. S.E.? 20 A. Yes. 21 Q. What does S.E. stand for? 22 A. I have no idea, a German acronym for Inc. 23 Q. This company is headquartered in Germany? 24 A. Correct. 25 Q. Has your position title changed at all from its initial</p>	<p>1 large facility, it seems like, this is a division of 2 Wacker Neuson, as you said, S.E. How many other such 3 divisions are there in North America? 4 A. There's five legal entities in North America, actually, 5 I think now four. We just merged one last year. 6 Q. Did I ask the right question? So there's five legal 7 entities and now there's four because you merged one. 8 I'm thinking about the divisions like this facility, 9 but are there other types of structural entities as 10 part of Wacker Neuson that encompass-- 11 A. Are you talking legal entities, or are you talking 12 about facilities? 13 Q. Well, good question. Is this division, for example, is 14 this its own profit center? 15 A. There's two, there's actually three corporations that 16 are headquartered here, four corporations: Wacker 17 Neuson Holding, Wacker Neuson Corporation, it's the 18 holding company. Underneath Wacker Neuson Corporation 19 is Wacker Neuson Sales America, LLC, Wacker Neuson 20 Production, LLC, and underneath Wacker Neuson Sales 21 America is a company called Lightning Rod Investments. 22 There was previously a Wacker Neuson Logistics America 23 that was merged into the sales company last year. 24 Q. I'm sorry, that was Wacker Neuson Logistics? 25 A. Yes.</p>

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1 Q. Merged in 2018?

2 A. Uh-huh.

3 Q. Into the second entity, Wacker Neuson Sales America?

4 A. Correct.

5 Q. So when taxes are prepared, for example, is that a

6 fiscal year or a calendar year?

7 A. Calendar year.

8 Q. When taxes were prepared, is there-- are there

9 separate tax filings for each division? I don't want

10 to get too much into taxes. I'm not a tax attorney.

11 A. No. We file as a consolidated U.S. entity. Some

12 states require separate filings for separate companies,

13 but as the IRS goes, federal, it's a consolidated corp.

14 Q. Now, in the Michigan plant, Wacker Neuson Michigan

15 plant in Norton Shores, did that require, the State of

16 Michigan require separate corporate filing for state

17 tax purposes?

18 A. I believe we filed as a consolidated group in Michigan,

19 but I don't know that for sure.

20 Q. Was Wacker Neuson, did it have a presence in Michigan

21 before it set up shop in Norton Shores in about 2007 or

22 '08?

23 A. I don't know.

24 Q. How long has this facility been here in Wisconsin, this

25 division?

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1 A. This exact one, I think they moved here in 1985 or

2 something. There's a placard outside.

3 Q. What do you do? Are you a manufacture and warehouse

4 here?

5 A. Correct.

6 Q. What does Wacker Neuson make? It makes different

7 things at different locations?

8 A. It makes construction equipment.

9 Q. All construction equipment across the board?

10 A. Generators, light towers, all the way up to skid

11 loaders and asphalt rollers, trench rollers.

12 Q. Now, have you been-- you were involved with some Wacker

13 Neuson operations in Michigan after 2013, I take it?

14 You got involved with the City of Norton Shores?

15 A. Yes.

16 Q. Generally, and this may be somewhat an unfair question

17 because it's very broad. Generally, what was your

18 level of contact with the Norton Shores operation from

19 your commencement of your employment here in 2013

20 forward?

21 A. I ran all the accounting for Norton Shores. I was head

22 of accounting for Norton Shores, the same roles I would

23 have here.

24 Q. Then I take it that did not require you to physically

25 be present in the Norton Shores facility?

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1 A. Correct.

2 Q. Did you go there from time to time?

3 A. Time to time, yes.

4 Q. Who was your-- who reported to you from the Norton

5 Shores facility?

6 A. Nobody.

7 Q. How did you gather the data you needed to do your--

8 perform your functions, your accounting functions, for

9 the Norton Shores facility?

10 A. We have a SAP accounting system.

11 Q. So you're all part of the same accounting system and it

12 was in real time; you would have access to all the

13 information and data you needed from time to time?

14 A. Correct.

15 Q. In the Norton Shores facility?

16 A. Correct.

17 Q. Who was-- was there anybody playing an accounting role

18 on site in Norton Shores?

19 A. No.

20 Q. Are you familiar generally with the tax abatements,

21 call it a system, call it a legislation, call it

22 opportunities, that businesses have in different

23 states?

24 MR. KOELZER: Object to the form, but you can

25 answer.

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1 THE WITNESS: somewhat.

2 BY MR. KARAFIA:

3 Q. Is there such a-- are there tax abatement opportunities

4 for businesses in the State of Wisconsin that you're

5 aware of?

6 A. Yes.

7 Q. Does Wacker Neuson enjoy any tax abatement privileges

8 here in this division here in Menomonee Falls?

9 A. I do not know that.

10 Q. Maybe they did in the past but if they did in the past,

11 maybe the time expired or something?

12 A. Could be.

13 Q. Now, in Michigan there's legislation governing tax

14 abatements; you're familiar with that?

15 A. No.

16 Q. You were aware that the Wacker Neuson plant in Norton

17 Shores entered into agreements with the City of Norton

18 Shores relative to tax abatement privileges, right?

19 A. Yes.

20 Q. And that-- you became familiar with such things as

21 these industrial facilities exemption certificates that

22 are issued by the Tax Commission to an entity like

23 Wacker Neuson?

24 A. Yes.

25 Q. Have you been involved-- I take it that you run the



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<p>1 accounting like you did for Wacker Neuson in Norton</p> <p>2 Shores, you perform all the accounting functions for</p> <p>3 the other divisions of Wacker Neuson Holding Company?</p> <p>4 A. Wacker Neuson Corporation, it's the holding company of</p> <p>5 the operating companies.</p> <p>6 Q. Okay. For Wacker Neuson Sales America, LLC, and for</p> <p>7 Wacker Neuson Production, LLC, you prepare the taxes</p> <p>8 for all those divisions?</p> <p>9 A. Yes.</p> <p>10 Q. Or you do the accounting functions that support the tax</p> <p>11 calculations for all those-- for the holding</p> <p>12 corporation?</p> <p>13 A. Correct.</p> <p>14 Q. All right. Where is Wacker Neuson Sales America</p> <p>15 located?</p> <p>16 A. Menomonee Falls. Well, we have presence in just about</p> <p>17 every state, so we file in just about every state.</p> <p>18 Q. All right. Understood. Do you know Lawrence O'Toole?</p> <p>19 A. Yes.</p> <p>20 Q. Is he no longer with Wacker Neuson?</p> <p>21 A. Correct.</p> <p>22 Q. What position did he hold when he was here?</p> <p>23 A. Vice president of finance.</p> <p>24 Q. The position you hold?</p> <p>25 A. Correct.</p>	<p>1 ago, you talked to Mr. O'Toole. What were</p> <p>2 the circumstances surrounding that discussion?</p> <p>3 A. He e-mailed us inquiring about his continuing benefits.</p> <p>4 Q. So you have an e-mail address for Mr. O'Toole, at</p> <p>5 least?</p> <p>6 A. Correct.</p> <p>7 Q. And thinking back on that exchange, vis-a-vis e-mail,</p> <p>8 do you have a general recollection of where he is</p> <p>9 generally? If you and I were going to get in a car or</p> <p>10 a train or a boat or something today and go find him,</p> <p>11 how far would we have to go?</p> <p>12 A. I believe he's in Wisconsin.</p> <p>13 Q. Okay. Again, you have the capability based on-- at</p> <p>14 least your month ago or so communication with</p> <p>15 Mr. O'Toole to contact him or your counsel could</p> <p>16 contact him at least by e-mail?</p> <p>17 A. Of course.</p> <p>18 Q. I would assume that he was reaching out for</p> <p>19 information, so he probably provided contact</p> <p>20 information, his phone number and mailing address,</p> <p>21 those types of things?</p> <p>22 A. I just have an e-mail. I don't know.</p> <p>23 Q. Do you know where he's working?</p> <p>24 A. I don't believe he is working.</p> <p>25 Q. Do you think he's retired?</p>
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<p>1 Q. Or previously held?</p> <p>2 A. Correct.</p> <p>3 Q. Do you know approximately how long he was here?</p> <p>4 A. Nope.</p> <p>5 Q. Do you know when he left? Was it when you took over?</p> <p>6 A. Correct.</p> <p>7 Q. So when you took over his position, and you've</p> <p>8 identified it previously as one of two titles, either</p> <p>9 manager of finance or vice president of finance I</p> <p>10 believe when you first hired in, did Mr. O'Toole leave</p> <p>11 the company entirely?</p> <p>12 A. Shortly after.</p> <p>13 Q. Did he leave under any unfavorable terms?</p> <p>14 A. I do not know.</p> <p>15 Q. Do you know where he is now?</p> <p>16 A. I do not.</p> <p>17 Q. When is the last time you had any communication with</p> <p>18 Mr. O'Toole?</p> <p>19 A. Several months ago, maybe a month ago.</p> <p>20 Q. And when I ask you about dates, if you know a date</p> <p>21 specifically because it sticks in your mind for a</p> <p>22 particular reason, which happens from time to time,</p> <p>23 that's great. If you don't know it, then do your</p> <p>24 best. I don't expect you to know specific dates off</p> <p>25 the top of your head necessarily. So about a month</p>	<p>1 A. He's receiving medical benefits as he's retired, so I</p> <p>2 assume he's retired.</p> <p>3 Q. So those are the benefits he was referring to?</p> <p>4 A. Correct.</p> <p>5 Q. What about Christopher Barnard? I'm going to ask you</p> <p>6 the same questions about him and perhaps a few others.</p> <p>7 Do you know Mr. Barnard?</p> <p>8 A. Yes.</p> <p>9 Q. Is he employed here?</p> <p>10 A. No.</p> <p>11 Q. When was he employed here?</p> <p>12 A. I don't recall the date that he retired.</p> <p>13 Q. What was his title?</p> <p>14 A. Chief executive officer.</p> <p>15 Q. That's a parallel title to the one you currently hold</p> <p>16 as chief financial officer?</p> <p>17 A. Correct.</p> <p>18 Q. And about roughly, without entirely guessing,</p> <p>19 approximately when-- was he here after you started in</p> <p>20 2013?</p> <p>21 A. Yes.</p> <p>22 Q. Somewhere along the way he retired like Mr. O'Toole?</p> <p>23 A. Correct.</p> <p>24 Q. And about when was that?</p> <p>25 A. I think 2016, around.</p>

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1 Q. When was the last time you had any communication, if  
2 you have, with Mr. Barnard?

3 A. A month ago.

4 Q. Coincidentally the same time frame as Mr. O'Toole. Is  
5 it coincidentally about the same subject matter,  
6 benefits of some sort?

7 A. No. He e-mailed me when he got a call to do a  
8 deposition.

9 (Off the record.)

10 MR. KARAF: We had just a short break. We  
11 talked about Mr. Barnard and realized that he's  
12 available and--

13 (Off the record.)

14 MR. KARAF: Mr. Koelzer and I were talking  
15 about Mr. Barnard and his availability and we have  
16 contact information, so we'll have to follow up on  
17 that.

18 BY MR. KARAF:

19 Q. Mr. Gile, you indicated that you believe Mr. Barnard  
20 worked at Leboys Corporation, L-E--

21 A. B-O-Y-S.

22 Q. What do they do; do you know?

23 A. They make mini excavation equipment and asphalt  
24 equipment.

25 Q. In Milwaukee?

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1 A. No.

2 Q. Here in Menomonee Falls?

3 A. No. I believe it's in somewhere down south. I don't  
4 know exactly where.

5 Q. But he hangs his hat here in--

6 A. He has a residence here.

7 Q. Okay. He seems to be available. Then Stephanie  
8 Steinbach, who I believe I'm going to meet today, when  
9 did she start working at Wacker Neuson?

10 A. I don't know.

11 Q. What is her position?

12 A. Director of HR.

13 Q. So she's the head HR person here at Wacker Neuson?

14 A. Correct.

15 Q. For this division, this location?

16 A. Correct.

17 Q. Was she here when-- was Ms. Steinbach here when you  
18 started in 2013?

19 A. I don't think so.

20 Q. Do you know Gary Nelund in the city of Norton Shores?

21 A. No.

22 Q. Do you know Mark Meyers, administrator of the city?

23 A. No.

24 Q. Mike Huston?

25 A. No.

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1 Q. Do you ever remember having a conversation with Mike  
2 Meyers?

3 A. I vaguely recall a conversation, yes.

4 Q. So Wacker Neuson applied for an industrial facilities  
5 exemption certificate back in 2007 with the City of  
6 Norton Shores. You were not around at that time,  
7 affiliated with Wacker Neuson in any way; is that  
8 right?

9 A. Correct.

10 Q. Have you reviewed that history of that?

11 A. No. Well, a bit, whatever a bit means.

12 Q. Good point.

13 A. I've seen the documentation from the day I think it  
14 started, from what little we have from that.

15 Q. Okay. There were agreements signed between Wacker  
16 Neuson and the City of Norton Shores pursuant to those  
17 procedures that resulted in the issuance of an  
18 industrial facilities exemption certificate by the  
19 State Tax Commission; there were agreements reached;  
20 you understand that?

21 A. Yes.

22 Q. And you understand that this case involves the-- in  
23 part the City's claim that Wacker Neuson owes the City  
24 the clawback amounts that are commensurate with the  
25 taxes Wacker Neuson saved during the course of its

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1 operation in the City of Norton Shores since, as the  
2 City claims, Wacker Neuson breached this agreement and  
3 left the City? You understand that's the nature of  
4 this case?

5 MR. KOELZER: Object to the form.

6 THE WITNESS: Yes.

7 BY MR. KARAF:

8 Q. Now, I think you were identified in the Wacker Neuson's  
9 initial disclosures here as you were the first person  
10 listed who may have discoverable information  
11 regarding-- I'm looking at the disclosure-- regarding  
12 Plaintiff's operation at the property in question. I'm  
13 going to ask you a little bit about that now. You  
14 would agree that you would have some knowledge about  
15 the operation of the property in question, being the  
16 City of Norton Shores operation?

17 A. Yes.

18 Q. There's a comma, then it goes on to the next thing that  
19 you may have knowledge of, the circumstances  
20 surrounding the sale of that property to TGW systems.  
21 Do you have knowledge about that?

22 A. Yes.

23 Q. That's-- then the next thing after the comma is the  
24 transfer of the IFT certificate to TGW. Do you have  
25 knowledge about that process?

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1 A. I don't know. I have no--  
 2 Q. Okay. We can look at some stuff and see if you had  
 3 your hand in that business. The last thing,  
 4 Defendant's, the City of Norton Shores, attempts to  
 5 recapture abated taxes from Wacker Neuson. Do you have  
 6 some information related to City of Norton Shores  
 7 attempts to recapture abated taxes?  
 8 A. Yes.  
 9 Q. Do you know the amount of the taxes, and it's a  
 10 changing amount from time to time, but do you know what  
 11 the principal amount-- I'm not looking at any  
 12 documentation at the moment, but going back in time to  
 13 the time that Wacker Neuson left, and we can look at  
 14 some documents, but \$951,000 comes to mind as the  
 15 initial invoice that was sent over and some change.  
 16 Does that sound about right?  
 17 A. Yes.  
 18 Q. Were you familiar with the computation process that  
 19 went into the City's statement of what it claimed  
 20 Wacker Neuson owed for the abated taxes, how they  
 21 calculated that amount?  
 22 A. Not exactly. A gentleman in my group recalculated it  
 23 and checked the methodology.  
 24 Q. Who did that?  
 25 A. Matt Snyder.

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1 Q. Did you say Max or Matt?  
 2 A. Matt.  
 3 Q. S-N-Y-D-E-R?  
 4 A. Yes, correct.  
 5 Q. What's his title here?  
 6 A. Accounting manager.  
 7 Q. Is that just-- all that stuff is tedious to me, so I  
 8 ask it not in an offensive way. Did you assign it to  
 9 him because it was something he could do and you didn't  
 10 want to do and let him figure it out, or did he have  
 11 some particular knowledge or background in these kinds  
 12 of issues that enabled him to calculate the property  
 13 taxes?  
 14 A. He is in charge of the taxes for North America. He's  
 15 the manager in charge of taxes, and he has all the  
 16 records of what we paid and the bills that we  
 17 received. So he did the detailed calculation, or  
 18 someone on his staff did the detailed calculation.  
 19 Q. So he has records of what we, Wacker Neuson you meant,  
 20 paid in taxes, right?  
 21 A. Correct.  
 22 Q. He has records of obviously his computations as to what  
 23 taxes were not paid because of the abatement permitted  
 24 under the industrial facilities exemption certificate?  
 25 MR. KOELZER: Object to foundation. You can

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1 answer.  
 2 THE WITNESS: He did attempt to recalculate  
 3 the amount that the City was claiming that we-- they  
 4 would like to recapture.  
 5 BY MR. KARAFIA:  
 6 Q. We might as well get to it. I think it was--  
 7 (Exhibit Nos. 1 and 2 were marked for  
 8 identification.)  
 9 BY MR. KARAFIA:  
 10 Q. Mr. Gile, I'm handing you proposed exhibits, or  
 11 Exhibits 1 and 2 of your deposition. They are--  
 12 Exhibit 1 is a multi-page document. Exhibit 2 is a  
 13 multi-page document. Exhibit 1 is the-- the first page  
 14 of Exhibit 1 is a letter dated November 7, 2018, a  
 15 single-page letter from City administrator, Mark  
 16 Meyers, to you; is that correct?  
 17 A. Correct.  
 18 Q. Exhibit 2 is, again, a multi-page document pertaining  
 19 to the same subject matter, dated September 20, 2018,  
 20 to Ms. Steinbach, and it contains-- both of these  
 21 exhibits-- and absolutely, you're going through it.  
 22 Take your time and go through it. I'll just ask you  
 23 some questions. Exhibit 1 is Mark Meyers' letter to  
 24 you. Was-- that followed, he's says, a recent  
 25 telephone conversation with you. Do you recall that

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1 conversation?  
 2 A. Vaguely.  
 3 Q. What do you recall vaguely about it?  
 4 A. Him claiming that we owe 900 some thousand back-taxes.  
 5 Q. And do you remember that that was your first Mark  
 6 conversation with any representative of the City of  
 7 Norton Shores about that issue, or were there others  
 8 before that, that you just don't recall?  
 9 A. I don't recall.  
 10 Q. Do you recall speaking with anybody other than  
 11 Mr. Meyers about this issue, whether this is the one  
 12 and only time you talked with him, or whether there  
 13 were others, anyone else you spoke with?  
 14 A. I believe I spoke with him twice.  
 15 Q. Did-- and this letter actually follows the letter in  
 16 Exhibit 2, the letter to Ms. Steinbach, which is dated  
 17 September 20, 2018, right?  
 18 A. Correct.  
 19 Q. And it appears that Mr. Meyers was forwarding to you a  
 20 revised invoice after he further took a look at it?  
 21 A. After we disputed his first one.  
 22 Q. Okay. Tell me, is that the first one being the one  
 23 that's referenced in Ms. Steinbach's letter, Exhibit 2?  
 24 A. I know we disputed the invoice because there was  
 25 improper calculations. I don't know if this was the



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1 exact one.

2 Q. Okay. What is-- if you look at Exhibit 1, what is your

3 second page of Exhibit 1? What is the amount stated

4 there, total?

5 A. 1,017,941.23.

6 Q. Okay. So did Mr. Meyers explain to you what-- why

7 Norton Shores is claiming that you, Wacker Neuson, owes

8 the stated amount in these invoices?

9 A. That was the discussion.

10 Q. Did you have any historical understanding of the

11 relationship with Wacker Neuson and the City of Norton

12 Shores such that you-- you knew about this issue all

13 along and you were just rehashing some points with

14 Mr.-- made perhaps some respective points with

15 Mr. Meyers over it, or was this the first you were

16 learning of the claim?

17 MR. KOELZER: Object to form. Go ahead and

18 answer if you understood the question.

19 THE WITNESS: I guess rephrase the question.

20 BY MR. KARAFIA:

21 Q. Okay. So what do you recall about the conversation

22 with Mr. Meyers that led to him to send this November

23 7, 2018 letter to you in Exhibit 1?

24 A. That he was saying that they needed to reclaim the

25 funds, that we owed the money because of the agreements

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1 of the past, and my counter to him was that we still

2 had the facility with all the employees there and more,

3 plus additional capital investment plus a long term

4 entity that will live in Norton Shores forever and that

5 the City was not hurt and that was why we were

6 disputing this.

7 Q. Did you initiate the call to Mr. Meyers, or did he

8 initiate the call to you, if you recall?

9 A. I don't recall.

10 Q. Would you mind going-- you went through that list

11 fast. Those are important points. What did you say

12 about that? I think it was in the context of you

13 questioning why he's making this claim since they still

14 have the facility, you said, right?

15 A. Uh-huh.

16 Q. And all the employees, and you said more employees?

17 A. That was my guess.

18 Q. What else did you say about capital investment, you

19 used that term?

20 A. I just know that TGW has more equipment probably than

21 what we had because we were simply an assembly house.

22 Q. Okay. Are these things you related to Mr. Meyers over

23 the phone?

24 A. Yes.

25 Q. Did you send him anything in writing, that you recall?

1 A. No, I don't believe so.

2 Q. Have you ever prepared a written document of any kind

3 outlining your perspective on this issue?

4 A. I don't believe so.

5 Q. And other than perhaps speaking with Mr. Koesler or his

6 partners or associates in this case, I don't want to

7 talk to you about those conversations, but have you

8 ever talked to anybody internally, Ms. Steinbach, for

9 example, or anybody else about this claim?

10 A. Yes.

11 Q. Ms. Steinbach would be one person you spoke with?

12 A. Correct.

13 Q. And now, did-- were there any-- who else did you have

14 communications with inside Wacker Neuson?

15 A. Matt Snyder.

16 Q. He's still here, right?

17 A. Yes.

18 Q. Full-time employee?

19 A. Yes.

20 Q. Works nine to five?

21 A. Yes.

22 Q. All right, and Ms. Steinbach, of course. Who else?

23 A. I don't recall.

24 Q. Did you have any communications with the home office in

25 Germany, for example, about this issue?

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1 A. We would have submitted this as an accrual, yes, and

2 they would have questioned what the accrual was, and we

3 would have to tell them.

4 Q. Did the-- you mentioned accrual. That caused me to ask

5 you, does the year to year, for example, from 2008

6 forward, 2009 forward, the tax preparation, did the

7 taxes year by year reflect in some part of the tax

8 filings on behalf of Wacker Neuson the tax savings that

9 Wacker Neuson enjoyed year by year due to the

10 abatements? Is there some part of the tax form that

11 reflects that?

12 A. I don't know.

13 Q. You prepare the tax data, don't you?

14 A. No.

15 Q. Some other-- you have some other corporate entity, some

16 accounting firm that prepares the tax records?

17 A. Correct.

18 Q. Are you the one that submits the data for those tax

19 forms, though?

20 A. Matt Snyder is responsible for submitting the data.

21 Q. Okay. Getting back now to your communication with

22 Mr. Meyers, you told him over the phone, how long did

23 your conversation last roughly? I'm not asking about

24 finite seconds.

25 A. Ten minutes.

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<p>1 Q. All right. So during the ten minutes, you don't know</p> <p>2 if he initiated the call or you initiated the call, but</p> <p>3 you had a conversation. It was about this issue, the</p> <p>4 clawback issue?</p> <p>5 A. Correct.</p> <p>6 Q. Did he say his piece like you said yours? Did you have</p> <p>7 sort of a competing conversation exchange? Did you</p> <p>8 talk about the things that you mentioned here, and I'm</p> <p>9 going to actually add to it in a moment, but did he</p> <p>10 make a statement to you about what his perspective is?</p> <p>11 A. Yes.</p> <p>12 Q. What did he say?</p> <p>13 A. That he has a signed document, that's the agreement.</p> <p>14 Q. Okay. So he referred to the agreement that the City of</p> <p>15 Norton Shores had with Wacker Neuson?</p> <p>16 A. Correct.</p> <p>17 Q. And that was a contract, right?</p> <p>18 MR. KOELZER: Object to foundation, but go</p> <p>19 ahead and answer.</p> <p>20 THE WITNESS: Sure.</p> <p>21 BY MR. KARAF: A.</p> <p>22 Q. You know what a contract is, right?</p> <p>23 A. Sure.</p> <p>24 Q. Right, an agreement?</p> <p>25 A. Yes.</p>	<p>1 going to be there forever and all these, I think what</p> <p>2 you're referring to, and tell me if I'm wrong, is the</p> <p>3 financial benefits to Norton Shores having TGW there,</p> <p>4 right?</p> <p>5 A. Correct.</p> <p>6 Q. That's essentially what sets up your response to</p> <p>7 Mr. Meyers as to why are you even bothering me with</p> <p>8 this tax abatement issue when you've got TGW there?</p> <p>9 A. Correct.</p> <p>10 Q. Now, as far as Matt Snyder's computations or</p> <p>11 calculations are concerned, do they differ with these</p> <p>12 computations?</p> <p>13 MR. KOELZER: Object to form. You're</p> <p>14 referring to the computations in Exhibit 1?</p> <p>15 BY MR. KARAF: A.</p> <p>16 Q. Good point. Let's do this, we'll get all this now--</p> <p>17 (Exhibit No. 3 was marked for</p> <p>18 identification.)</p> <p>19 BY MR. KARAF: A.</p> <p>20 Q. Now, I've handed you Exhibit 3, which is again a</p> <p>21 multi-page document. It's a complaint that was filed</p> <p>22 by Wacker Neuson in this case in the United States</p> <p>23 District Court for the Western District of Michigan.</p> <p>24 The complaint is eight pages, and it's got various</p> <p>25 attachments to it. If you go to Page 5 of Exhibit 3,</p>
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<p>1 Q. Have you-- why was, if you know, why was Mr. Meyers</p> <p>2 speaking with you about this issue? Were you the</p> <p>3 person representing Wacker Neuson with regard to the</p> <p>4 claim of this tax abatement issue?</p> <p>5 A. Yes.</p> <p>6 Q. So being involved in a conversation at least November</p> <p>7 of 2018 over the phone and receiving documents from</p> <p>8 Mr. Meyers, did you look back at the documents that he</p> <p>9 was referring to and review the procedural history of</p> <p>10 the agreements reached?</p> <p>11 A. Yes.</p> <p>12 Q. So TGW, the industrial facilities exemption</p> <p>13 certificate, the IFEC, we can refer to it as; is that</p> <p>14 agreeable with you?</p> <p>15 A. Yes.</p> <p>16 Q. For purposes of this deposition. The IFEC was</p> <p>17 transferred to TGW at some point?</p> <p>18 A. I believe so, yes.</p> <p>19 Q. The State Tax Commission approved the issuance of the</p> <p>20 remainder of the IFEC to TGW; is that your</p> <p>21 understanding?</p> <p>22 A. Yes.</p> <p>23 Q. So that's partly what supports your perspective that</p> <p>24 you started to reference that TGW took over as a number</p> <p>25 of employees, the number of capital investments that's</p>	<p>1 Page 5 of the complaint, do you see in Paragraph 29, at</p> <p>2 the top of the page under the caption, capital D, the</p> <p>3 caption reads, "The City attempts to claw back Wacker</p> <p>4 Neuson's past tax abatements," and then it continues on</p> <p>5 chronologically with the enumerated paragraphs.</p> <p>6 So 29 talks about, I think, Wacker Neuson</p> <p>7 asserting in that paragraph language and some factors</p> <p>8 that sound familiar, at least sound somewhat similar to</p> <p>9 the ones that you identified here, the economic benefit</p> <p>10 realized to the City by Wacker Neuson, although that's</p> <p>11 a little different though, that's by Wacker Neuson, not</p> <p>12 TGW. Anyway, in Paragraph 29 there's a reference to</p> <p>13 see invoice Exhibit C. This is a reference to the,</p> <p>14 \$966,943.65 that the City is claiming from Wacker</p> <p>15 Neuson at that time. Those are not tabs yet, but just</p> <p>16 a few pages in-- so you found Exhibit C, which indeed</p> <p>17 is an invoice from the City of Norton Shores dated</p> <p>18 9/19/18, in the amount of 966,943.65; is that correct?</p> <p>19 Exhibit C states that amount?</p> <p>20 A. Yes.</p> <p>21 Q. And that amount in Exhibit C of Wacker Neuson's</p> <p>22 complaint filed in this case appears to be the same,</p> <p>23 copy of the same invoice that we've marked as Exhibit 2</p> <p>24 in your deposition, correct?</p> <p>25 A. Correct.</p>

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1 Q. That's the Mark Meyers letter to Stephanie Steinbach  
2 with the attached September 19, 2018 invoice; is that  
3 correct?  
4 A. That is correct.  
5 Q. All right. Then just to get to the procedural history  
6 here, in Paragraph 30 of the complaint, on Page 5 of  
7 Exhibit 3, it refers to Exhibit D of-- which is the  
8 revised invoice, and Exhibit D is the same exhibit  
9 we've marked as Exhibit 1 in this deposition, is it  
10 not?  
11 A. Yes.  
12 Q. So that's the Exhibit 1 in this deposition, and Exhibit  
13 D in Wacker Neuson's complaint filed in this action is  
14 a reflection of Mr. Meyers' letter to you dated  
15 November 7, 2018 where he references your telephone  
16 conversation and references the revised invoice  
17 reflecting a \$15,596.71 reduction based on removal of  
18 four months of winter tax bills calculated from August  
19 31, 2017 closing date through December 1, 2018; is that  
20 true?  
21 A. Yes.  
22 Q. All right. So now that we've got these-- identified  
23 the two exhibits we marked to the deposition  
24 corresponding with the two exhibits marked and attached  
25 to Wacker Neuson's initial complaint which was filed

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1 back on January 10, 2019, then we can proceed from that  
2 basis. What is your understanding of the calculations  
3 that Mr. Snyder came to as it relates to these  
4 exhibits, either 1 and 2 in this deposition or C and D  
5 in Wacker Neuson's complaint?  
6 A. They were trying to claim more clawback on bills that  
7 were not our responsibility.  
8 Q. That's what Mr. Snyder's conclusions were?  
9 A. I believe so.  
10 Q. What is the amount that you came up with?  
11 A. It appears \$15,000.  
12 Q. No. Oh, so you're saying there was some communication  
13 between your offices, i.e., Mr. Snyder and Mark Meyers'  
14 office such that Mr. Meyers agreed with the four month  
15 reduction leading to a 15,000 and some odd dollar  
16 reduction?  
17 A. That's correct.  
18 Q. So if the clawback is applicable from your perspective,  
19 then the amount, the corrected amount is reflected in--  
20 it was reflected in Exhibit D of the complaint that was  
21 filed by Wacker Neuson?  
22 A. Yes.  
23 Q. The \$951,346.94?  
24 A. Yes.  
25 Q. Okay. Now, let's clarify something because Exhibit 1

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1 actually has a different invoice as the second page to  
2 it, letter following Mr. Meyers' letter, it's got an  
3 invoice dated September 16, 2019, right, and that's not  
4 really the invoice that was part of Mr. Meyers'  
5 transmittal of November 7, 2018. So the invoice on--  
6 that's attached to Exhibit 1, I'm saying this for the  
7 record and for our purposes as well, it appears that  
8 Mr. Meyers' letter in preparation here got attached to  
9 the most recent invoice that you maybe have not seen, I  
10 don't know, dated September 16, 2019. Have you seen  
11 this one before?  
12 A. No.  
13 Q. All right. Now, so we've identified perhaps the  
14 discrepancy, that is to say for the benefit of the  
15 record, we'll straighten this out in further  
16 depositions, Exhibit 1 we've marked, which is the cover  
17 page of Mr. Meyers' letter to you, single page,  
18 November 7, 2018 referencing the revised invoice that  
19 you have agreed is attached as Exhibit D in Wacker  
20 Neuson's complaint filed in this action, right? The  
21 corrected amount is \$951,346.94, right?  
22 A. Correct.  
23 MR. KOELZER: John, can I point out one more  
24 thing for the record?  
25 MR. KARAF: Yes.

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1 MR. KOELZER: The November 7 letter as part  
2 of Exhibit 1 appears to have the case information  
3 consistent with the November 7 letter that's part of  
4 the complaint. That was taken from the complaint.  
5 MR. KARAF: Right.  
6 MR. KOELZER: The next pages of that Exhibit  
7 I do not have that from the complaint. It's my  
8 understanding that this November 7 letter was taken  
9 from what was filed in the complaint, the pages that  
10 followed in Exhibit 1 were not part of what was filed  
11 in the complaint.  
12 MR. KARAF: I agree. The second page and  
13 the attached documentation of Exhibit 1 is the latest  
14 invoice calculated with a 7 percent late fee of  
15 \$66,594.29, so that's what that appears to be.  
16 BY MR. KARAF:  
17 Q. So, Mr. Gile, do you agree that Exhibit 1, although the  
18 cover letter, single page, November 7, 2018 letter from  
19 Meyers does not correspond with the balance of the  
20 documents attached to Exhibit 1, deposition Exhibit 1?  
21 A. I agree.  
22 Q. But the balance of the documents attached to this  
23 deposition, attached to Mr. Meyers' letter as  
24 Deposition Exhibit No. 1 does reflect, when you look at  
25 that September 16, 2019 invoice number 23-- I'm sorry,

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1 invoice number 253015, when you look at that, it does  
 2 reflect the IFT clawback amount, which you agreed was  
 3 the revised corrected amount of \$951,346.94. It does  
 4 state that principal amount before the late fees  
 5 assessed?  
 6 A. Correct.  
 7 Q. Now, I went through all that with you because I  
 8 submitted some discovery information, a discovery  
 9 request to Wacker Neuson, some interrogatories and  
 10 documents request. Did you help out with responding to  
 11 any of those items?  
 12 A. Some, yes.  
 13 Q. And I asked for this information in interrogatories  
 14 too, but in particular I submitted some requests for  
 15 admissions just to admit some facts that I thought were  
 16 not necessarily in dispute. My request to admit number  
 17 12 that I submitted, I'd be glad to show you a copy of  
 18 that. In fact, I will show you a copy. Hand one to  
 19 Mr. Koelzer. I'm handing you the entire set of Wacker  
 20 Neuson's responses to the City of Norton Shores' First  
 21 Request for Admissions, and I opened it up to Page 5  
 22 which has the caption, Request to Admit Number 12. You  
 23 can see in that request to admit-- by all means, take  
 24 your time to read that Number 12. Let me know when  
 25 you're finished reading it. Are you all done?

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1 A. Uh-huh.  
 2 Q. Is that yes?  
 3 A. Yes.  
 4 Q. Now, the answer that Wacker Neuson gave me to that  
 5 request to admit, that the amount of taxes that Wacker  
 6 Neuson would have paid over the years covered by the  
 7 IFEC 2008 had you not had the benefit of it was  
 8 951,346.94, an amount that I think we have agreed was  
 9 the revised corrected amount after Mr. Snyder  
 10 communicated with Mr. Meyers. The answer I got  
 11 was, "Wacker Neuson lacks adequate information  
 12 regarding the substance of this request, and therefore  
 13 it is denied." In further response, "The substance of  
 14 this request is the subject of ongoing discovery." So  
 15 as of August 21, 2019, two, three months ago, did  
 16 Wacker Neuson lack the information necessary to review  
 17 the invoices that were long ago sent to it from the  
 18 City of Norton Shores to determine whether it agrees  
 19 with the calculations?  
 20 MR. KOELZER: Object to foundation. You can  
 21 answer.  
 22 THE WITNESS: So we recalculated the tax  
 23 based on their calculations. We have never looked into  
 24 what the IFEC or whatever is to give us as a rebate or  
 25 a discount. So we know the calculation based on what

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1 Norton Shores gave us, and we only recalculated to that  
 2 level. We didn't look in to see if the discount amount  
 3 was the correct amount. We just made sure that their  
 4 calculations were correct. Do you see what I'm saying?  
 5 BY MR. KARAFA:  
 6 Q. I don't know.  
 7 A. Let's say the tax bill would normally have been \$1,000  
 8 and we were to receive a discount of 20 percent. So  
 9 take 20 percent off \$1,000, and it would be \$800. We  
 10 recalculated 1,000 times the 20 percent to get the  
 11 discount amount. We never checked to see if the  
 12 discount amount is correct or if any of those other  
 13 things are correct. We merely recalculated the  
 14 system. That's how we discovered that they were  
 15 charging us for invoices after the building was sold or  
 16 for tax.  
 17 Q. So to be clear, once you discovered that and you  
 18 recalculated it, vis-a-vis, Mr. Snyder, as you have  
 19 indicated, we came to an agreed upon amount, the  
 20 correct amount of \$951,364-- the corrected amount-- let  
 21 me start over. \$951,346.94?  
 22 A. Correct.  
 23 Q. That is the amount that you agree that Wacker Neuson  
 24 would have paid had it not had the privilege of tax  
 25 abatement for those--

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1 A. I believe so.  
 2 Q. My question is, when did Mr. Snyder do these  
 3 calculations?  
 4 A. I don't know, somewhere between the two invoices.  
 5 Q. If we look at Exhibit 1, which, the attachments to  
 6 Exhibit 1 may be, you know, very recent and not  
 7 appropriately coupled with the first page of Exhibit 1,  
 8 which is Mr. Meyers' November 7, 2018 letter, but if we  
 9 look at the first page of Exhibit 1, Mr. Meyers'  
 10 letter, we know that he reduced the initial invoice by  
 11 15,596.71, that Mr. Snyder calculated to come up with  
 12 the corrected amount that we've agreed upon, right?  
 13 A. That's correct.  
 14 Q. That had to be before November 7, 2018 that Mr. Snyder  
 15 did this work?  
 16 A. Sometime there, yes.  
 17 Q. I don't know if I am missing something here, but Wacker  
 18 Neuson was-- Wacker Neuson certainly did have adequate  
 19 information regarding this request that it admit this  
 20 amount?  
 21 A. No.  
 22 Q. Why not?  
 23 A. Because we still haven't gone back and checked the  
 24 whole calculation. You're assuming that we know what  
 25 the calculated amount is in total. We didn't check

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<p>1 that. We were just merely taking their word for it.</p> <p>2 Q. Well, you're taking their word for it, but they have</p> <p>3 given you-- Norton Shores has given Wacker Neuson on</p> <p>4 numerous occasions all the supporting data that went</p> <p>5 into its calculations, right?</p> <p>6 A. I don't have that information. We have an outside</p> <p>7 third party that files our taxes for us, and we assume</p> <p>8 that they're doing it correctly, and we see what the</p> <p>9 City of Norton Shores said that we were abated, and we</p> <p>10 just merely did the calculation backwards to check to</p> <p>11 see that their number was correct. We didn't check the</p> <p>12 overall tax numbers.</p> <p>13 Q. But again, looking at Wacker Neuson's complaint filed</p> <p>14 in this case, Exhibits C and D, which we took a look</p> <p>15 at, both Exhibits C and D that were part of the January</p> <p>16 10, 2019 complaint contained all the supporting data</p> <p>17 setting forth the various taxing units and the mills,</p> <p>18 correct?</p> <p>19 A. And we didn't check any of that. That's what I'm</p> <p>20 saying. We haven't checked any of the mills, so we</p> <p>21 don't know if any of that is correct. So we don't know</p> <p>22 that the total would have been correct and this is just</p> <p>23 the difference between the two. We didn't go back and</p> <p>24 I haven't checked the mill rate, and I haven't checked</p> <p>25 all those things. This is what they claim, yes.</p>	<p>1 A. It's a pretty simple calculation, and they screwed that</p> <p>2 up.</p> <p>3 Q. Well, if it's a simple calculation, why are you not in</p> <p>4 a position to state that that's the final amount that</p> <p>5 you agree upon?</p> <p>6 A. Because I don't know-- that's the final amount that</p> <p>7 they claim. That's what I agree on. I don't know that</p> <p>8 that's the right amount.</p> <p>9 Q. What would you need in addition to the information you</p> <p>10 have now to determine whether it's the right amount?</p> <p>11 A. To go back and get the mill rate for each year and the</p> <p>12 values submitted for each year and calculate based on</p> <p>13 that to see what the total amount should have been and</p> <p>14 then apply the discount factor for the abatement and</p> <p>15 then come up with a total. We didn't do that step. We</p> <p>16 merely took their calculation.</p> <p>17 Q. How burdensome of a process would that be? I mean,</p> <p>18 Norton Shores did it.</p> <p>19 A. Yes. 2008, that goes a long way back. We don't have</p> <p>20 documentation that's easy to get. We'd have to get</p> <p>21 into paper and go into a vault and figure out all</p> <p>22 this. It's quite a bit of time.</p> <p>23 Q. Let me ask you this: Are you suggesting that Wacker</p> <p>24 Neuson didn't receive on a year-by-year basis the</p> <p>25 computations of the taxes that were abated year by</p>
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<p>1 That's what they claim. I checked it once and found</p> <p>2 errors. I didn't go back and check it all again.</p> <p>3 Q. Well, you had Mr. Snyder go back and check, review all</p> <p>4 their computations, right?</p> <p>5 A. No. We had him review the amount that they claim is</p> <p>6 the discount. I have not checked mill rates, and I</p> <p>7 have not checked property values and all that other</p> <p>8 stuff, no.</p> <p>9 Q. Do you plan on doing that?</p> <p>10 A. I don't know.</p> <p>11 Q. You're the accountant.</p> <p>12 A. It depends on the outcome, I guess.</p> <p>13 Q. All right. Well, the-- in the formula-- the formula is</p> <p>14 not a mystery, right? It's not the City of Norton</p> <p>15 Shores' formula; this is a statutory formula, right?</p> <p>16 MR. KOELZER: Object to foundation.</p> <p>17 BY MR. KARAFIA:</p> <p>18 Q. You're aware there's a statute that governs the</p> <p>19 calculation? It sets out the calculation in the State</p> <p>20 of Michigan?</p> <p>21 A. Yes, I'm well aware of that, but mistakes happen, as we</p> <p>22 can see here.</p> <p>23 Q. Right, and Norton Shores responded. They were \$15,000</p> <p>24 off on about a million dollar assessment, and they</p> <p>25 revised the invoice, right?</p>	<p>1 year?</p> <p>2 A. I assume-- I don't know. I have no idea.</p> <p>3 Q. All right. As you sit here today, looking at-- did you</p> <p>4 look at Mr. Meyers, when he sent you that letter in</p> <p>5 November of 2018 and the revised amount, did you share</p> <p>6 that with Mr. Snyder?</p> <p>7 A. Did I share this letter with Mr. Snyder?</p> <p>8 Q. And the data and the revised invoice.</p> <p>9 A. I believe we checked it to what Matt's calculations</p> <p>10 were, yes.</p> <p>11 Q. So as you sit here today, you have no reason to dispute</p> <p>12 the amount that's claimed? You have no reason to?</p> <p>13 A. I dispute the amount they're claiming, yes.</p> <p>14 Q. Why is that?</p> <p>15 A. Because it's not right.</p> <p>16 Q. Why not?</p> <p>17 A. Because they still get all of the benefits for us</p> <p>18 building a building in 2008, and they have full</p> <p>19 employment over there with a building full of people,</p> <p>20 and the new owner of the building is employing people,</p> <p>21 paying taxes, the property was built. It's still</p> <p>22 paying taxes on the property.</p> <p>23 Q. Okay. So we're talking about the calculations</p> <p>24 themselves. We'll get into the other part. You have</p> <p>25 no reason to dispute the amount now that Mr. Snyder has</p>



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1 put pen to paper and did his accounting, auditing of  
 2 the paper work back in 2018 and came up with a change  
 3 of 15,000 bucks and some odd change. The City revised  
 4 its invoice after deducting those four months of  
 5 calculations and resubmitted the invoice to you. We  
 6 have established certainly that much today? You have  
 7 no reason to dispute, I ask you, the amount of  
 8 \$951,346.94, at least as of 2018? You have no reason  
 9 to dispute that amount as being the correct calculated  
 10 amount?  
 11 A. I believe that's the correct calculation that they have  
 12 given us.  
 13 Q. So Wacker Neuson's decision-- did it have a presence in  
 14 Michigan before it set up shop in Norton Shores?  
 15 A. I don't know.  
 16 Q. It constructed this manufacturing and warehouse  
 17 facility in the City of Norton Shores in 2007, 2008?  
 18 A. In that time frame somewhere.  
 19 Q. And you believe that was a benefit that Norton Shores  
 20 received from Wacker Neuson?  
 21 A. Yes.  
 22 Q. Wacker Neuson received the benefit in these tax  
 23 abatements, true?  
 24 A. Sure.  
 25 Q. Well, you say that, "sure," which on paper looks like

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1 you agree with me, but you kind of shrugged a little  
 2 bit as if you're sort of reluctantly agreeing with the  
 3 proposition. The bottom line is though regardless of  
 4 how many millions Wacker Neuson was grossing, or  
 5 putting all that aside, the bottom line is Wacker  
 6 Neuson saved on an annual basis a calculable amount of  
 7 money in that it was not required to pay property taxes  
 8 on certain portions of the property--  
 9 A. Only compared to Norton Shores. If I were to build a  
 10 factory today, I would go down to a low cost state or  
 11 to Mexico. Did they benefit? No, no, they didn't  
 12 because Norton Shores could be a lot higher mill rate  
 13 than Mexico or Arkansas, so did they benefit? No.  
 14 Q. So Wacker Neuson did not benefit?  
 15 A. No, they did not benefit.  
 16 Q. So Wacker Neuson, if the \$951,000 is roughly-- I'm  
 17 sorry, if that's a correct calculated amount for  
 18 purposes of this question, and forgive my gross  
 19 approximations, but over the course of ten years, close  
 20 to ten years of operation, Wacker Neuson would have on  
 21 an average basis saved about \$100,000 a year in taxes,  
 22 right?  
 23 A. No, only to what Norton Shores wanted to claim. If you  
 24 were to build the facility in Mexico, you would pay a  
 25 dollar. Norton Shores charged millions more than what

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1 we could have saved.  
 2 Q. Who forced Wacker Neuson to build the facility in  
 3 Norton Shores?  
 4 A. Nobody.  
 5 Q. Why are you mentioning Mexico? What does that have to  
 6 do with anything?  
 7 A. What does Norton Shores saving-- they didn't save  
 8 anything. We didn't save anything. It cost money to  
 9 be in Norton Shores. We paid taxes every year.  
 10 Q. You made money in Norton Shores though? The business  
 11 made money, right?  
 12 A. I'm sure it did make some money in some years so Wacker  
 13 Neuson set up shop--  
 14 Q. Wacker Neuson is a profit corporation, right, an LLC?  
 15 A. It is, but not every year.  
 16 Q. And do you calculate your financial balance sheet in  
 17 each location?  
 18 A. No.  
 19 Q. So we don't know if the corporation overall is making  
 20 money or losing money? We don't know which divisions  
 21 are-- in a positive year, we don't know which divisions  
 22 are creating a positive contribution to that profit and  
 23 which ones are detracting with a loss or inefficiency  
 24 and that sort of thing?  
 25 A. We can get an approximation.

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1 Q. Okay. The Wacker Neuson-- you're arguing points that  
 2 I'm trying to figure out that Wacker Neuson could have  
 3 gone to Mexico or some other place. I guess that's  
 4 theoretically possible. I don't know what that has to  
 5 do with this case though. It did decide to set up shop  
 6 and it did set up shop in Norton Shores?  
 7 A. It did.  
 8 Q. I assume Wacker Neuson identified that location to be--  
 9 they didn't do it as a charitable cause to Norton  
 10 Shores, did they?  
 11 A. I have no idea.  
 12 Q. This is a big corporation, right? It's a German  
 13 operated corporation. The objective is to make a  
 14 profit, right?  
 15 A. That's the objective.  
 16 Q. So it identified, at least back in the time frame of  
 17 roughly 2007, 2008, that Norton Shores, for whatever  
 18 reasons it had on its side of the fence, it identified  
 19 that as a place that made sense to Wacker Neuson to  
 20 construct a facility and set up an operation there?  
 21 MR. KOELZER: Object to foundation. You may  
 22 answer if you know.  
 23 THE WITNESS: I have no idea.  
 24 (Off the record.)  
 25 (Exhibit Nos. 4 through 6 were marked for

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1 identification.)  
 2 BY MR. KARAFIA:  
 3 Q. So, Mr. Gile, I want to-- we took a break for a few  
 4 moments, and I've handed you during the break while we  
 5 were off the record, and your counsel three additional  
 6 exhibits, Nos. 4, 5 and 6. You've had a moment to look  
 7 at them, I believe while we were off. I want to ask  
 8 you a couple things about those. I recognize that  
 9 these predate your employment with Wacker Neuson. When  
 10 you look at Exhibit 4, which is a four-page document  
 11 entitled Application for Industrial Facilities Tax  
 12 Exemption Certificate, do you recognize that? Have you  
 13 seen it before?  
 14 A. No.  
 15 Q. Are you familiar with this type of form at all?  
 16 A. No.  
 17 Q. If you go to the second page of Exhibit 4, it, in the  
 18 top box, Item 15A, requests the entry of the company  
 19 officer, and it says Christopher Barnard there. Do you  
 20 see that?  
 21 A. Uh-huh.  
 22 Q. Is that a yes, please?  
 23 A. Yes, sorry.  
 24 Q. And Mr. Barnard, we've mentioned early on in this  
 25 deposition that he lives here in Wisconsin somewhere

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1 and his deposition will probably be taken. That's the  
 2 same Christopher Barnard, right?  
 3 A. Correct.  
 4 Q. And that's-- do you recognize his signature there as  
 5 Christopher Barnard?  
 6 A. No.  
 7 Q. But it would appear to you that Item 15B is the  
 8 signature of Mr. Barnard because 15A references the  
 9 name of the officer who's signing this?  
 10 MR. KOELZER: Objection to foundation.  
 11 BY MR. KARAFIA:  
 12 Q. But you don't recognize that as Mr. Barnard's  
 13 signature?  
 14 A. No.  
 15 Q. But you agree looking at it, it would be a fair  
 16 assumption that it looks like it could be a C and looks  
 17 like a capital B and the rest of it, maybe one person  
 18 could make it out and others could disagree, but  
 19 nonetheless, putting 15A and 15B together, it looks  
 20 like the signature of Christopher Barnard, right?  
 21 A. Okay.  
 22 Q. If you were signing a document such as this and it had  
 23 typed in your name above, you would sign below, that's  
 24 something you're familiar with, a typed name and then  
 25 the signature line?

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1 A. Yes.  
 2 Q. Okay. Now, the date of that is November 1, 2007 being  
 3 signed. If you go to the third page of Exhibit 4,  
 4 the-- it's called the Information Sheet at the top.  
 5 The applicant, Ground Heaters, Inc., slash, Wacker.  
 6 What is Ground Heaters, Inc.; do you know?  
 7 A. That is the company that Wacker bought.  
 8 Q. Okay. And the address of 1300 Mount Garfield Road, you  
 9 understand that to be the location of Wacker Neuson's  
 10 City of Norton Shores facility when it operated there?  
 11 A. Yes.  
 12 Q. The nature of the business on this information sheet,  
 13 Page 3 of Exhibit 4 asks for a statement of the nature  
 14 of the business, and somebody handwrote in Worldwide  
 15 Leader in Medium Duty Construction Equipment  
 16 Manufacturing, Sales and Marketing, right?  
 17 A. Yes.  
 18 Q. Is that a fair description of Wacker Neuson back in  
 19 2007?  
 20 A. I don't know.  
 21 Q. Okay. In any event, down below, Number 4 refers to the  
 22 value of expansion or improvement, building  
 23 improvements, \$7,100,000 and machinery and equipment,  
 24 \$2,287,390. Do you see that?  
 25 A. Yes.

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1 Q. Now, looking back, when you look at that, does that--  
 2 even though it predated your time, based on your review  
 3 of this case, your discussions with Mr. Meyers and  
 4 those kinds of things, does that look like those  
 5 amounts were consistent with what Wacker Neuson was  
 6 planning to do back in 2007 when it made application  
 7 here?  
 8 A. I don't know.  
 9 Q. All right. Now, Number 5 below that has the form,  
 10 states, number of years requested for tax exemption,  
 11 colon, and somebody wrote in the numeral 12, right?  
 12 A. Yes.  
 13 Q. Now, there's a part in the complaint, and maybe it  
 14 dovetails with what you were saying earlier in your  
 15 testimony, looking back on Exhibit 3, if you can grab  
 16 Exhibit 3, and turn to page-- just two, next page,  
 17 second page. See Paragraph 11 makes reference to the  
 18 certificate. Let's back up to-- let's start off with  
 19 Paragraph 7 and just go through. You see Paragraph 7  
 20 states in Exhibit 3 Walker's complaint says in 2007  
 21 Wacker Neuson explored the possibility of making a  
 22 seven and a half million dollar investment in the City.  
 23 Do you see that?  
 24 A. Yes.  
 25 Q. All right. Paragraph 8 says the proposed investment

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1 involved the construction of a 168,000 square foot  
 2 manufacturing and warehouse facility as well as the  
 3 acquisition of \$500,000 of personal property. Do you  
 4 see that?  
 5 A. Yes.  
 6 Q. Paragraph 9 notes that the Michigan Economic  
 7 Development Corp deemed the project, quote, "Very  
 8 important to the State of Michigan and the City of  
 9 Norton Shores." Do you see that?  
 10 A. Yes.  
 11 Q. And Paragraph 10 states that, quote, "To induce this  
 12 investment, the City approved and the State Tax  
 13 Commission issued an industrial facilities tax, paren,  
 14 quote, IFT, end quote, close paren, exemption  
 15 certificate. Paren, certificate number 2008-038,  
 16 hereafter the certificate, close paren, to Wacker  
 17 Neuson." Then it refers to Exhibit A. Do you see that?  
 18 A. Yes.  
 19 Q. Paragraph 11 says the certificate was issued on May 12,  
 20 2008 and went into effect for 12 years beginning  
 21 December 31, 2008 and set to conclude on December 30,  
 22 2020. Do you see that?  
 23 A. Yes.  
 24 Q. And that's 12 years, of course, right, those dates?  
 25 A. Yes.

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1 Q. Now, Paragraph 12, it says, "As part of the issuance of  
 2 that certificate, the City required Wacker Neuson to  
 3 execute the City's form Act 198 Agreement, paren, the,  
 4 quote, "Agreement," unquote. Meaning everywhere else  
 5 in this complaint where it refers to the agreement,  
 6 that's what it's referring to, which was drafted by the  
 7 City, "See Agreement Exhibit B," so that's attached as  
 8 Exhibit B. You see that paragraph?  
 9 A. Yes.  
 10 Q. Now, do you have any reason to weigh in, so to speak,  
 11 on that proposition as part of the issuance of the  
 12 certificate, it was the City that required Wacker  
 13 Neuson to execute this form Act 198 agreement in any  
 14 part of your history of discussions or review of  
 15 documents?  
 16 A. No.  
 17 Q. You don't know whether that's true or not, necessarily?  
 18 A. No.  
 19 Q. Now, Paragraph 13-- look at Paragraph 12. If I propose  
 20 to you that a statutory requirement, as a matter of  
 21 law, under Michigan law requires that for a company to  
 22 get a benefit of an industrial facilities tax exemption  
 23 certificate, the Tax Commission has to first see that  
 24 the company has an agreement with the local political  
 25 unit. Is that something that sounds familiar to you,

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1 that there's a law that requires an agreement to be in  
 2 place?  
 3 A. No.  
 4 Q. Paragraph 13 states that, "the purpose of the  
 5 agreement," this would be the agreement between Wacker  
 6 Neuson and the City, "was to ensure that the City would  
 7 receive an economic benefit from the presence of Wacker  
 8 Neuson's proposed facility," right? That's what it  
 9 says there?  
 10 A. Yes.  
 11 Q. Do you have any reason to think that that's true, or  
 12 not, or you don't really know?  
 13 A. That they received the benefit? Yes, they did receive  
 14 the benefit.  
 15 Q. Well, the complaint, Paragraph 13 asserts that the  
 16 purpose of the agreement was to ensure that the City  
 17 would receive an economic benefit from the presence of  
 18 Wacker Neuson's proposed facility. Based on your  
 19 review of this case or your knowledge of the  
 20 circumstances, is that consistent with your  
 21 understanding, or do you not know what the purpose-- do  
 22 you have no opinion about what the purpose is?  
 23 A. I have no opinion.  
 24 Q. Okay. Then lastly, Paragraph 14 says that, "In general  
 25 the agreement granted certain tax savings to Wacker

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1 Neuson." If we stop there, looking back at the  
 2 agreements in place, based on your understanding, do  
 3 you agree with that proposition that the agreement  
 4 granted certain tax savings to Wacker Neuson?  
 5 A. No.  
 6 Q. Then after the comma, the assertion, Paragraph 14 of  
 7 Exhibit 4 continues, "And it included a provision that  
 8 if the City were to lose out on the economic benefit of  
 9 the operation of the facility at the property, then the  
 10 City could recapture those tax savings." You disagree  
 11 with the first part of the sentence. Do you agree or  
 12 disagree with this part, the second part of Paragraph  
 13 14?  
 14 A. "Were the City to lose out on the economic benefit of  
 15 the operation, they should then recapture the tax  
 16 savings." That's what it says.  
 17 Q. That's what-- in general, the agreement granted savings  
 18 and had a provision that stated that. Let's stop  
 19 there. You're hesitating, and I understand. Let's  
 20 look at the agreement. So Exhibit 4, getting back to  
 21 Exhibit 4, if you look at the front page of Exhibit 4,  
 22 this is an application for an industrial facilities tax  
 23 exemption certificate, right? That's what the caption  
 24 is? Do you agree?  
 25 A. Yes.

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<p>1 Q. Okay. And the applicant information, that's the second</p> <p>2 box down on Page 1 of Exhibit 4, the applicant</p> <p>3 information, Box 1A, it says "Company name, paren,</p> <p>4 applicant must be the applicant, slash, operator of the</p> <p>5 facility, close paren," and Wacker Neuson Corporation</p> <p>6 is stated in there, correct? Wacker Neuson Corp,</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. And the location of the facility is 1300 East Mount</p> <p>10 Garfield Road, Norton Shores?</p> <p>11 A. Yes.</p> <p>12 Q. So Wacker was the applicant for this industrial</p> <p>13 facilities tax exemption certificate, at least by your</p> <p>14 reference to Exhibit 4 as you look at it, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And certainly there was for Wacker to set up shop in</p> <p>17 the City of Norton Shores, there's no understanding on</p> <p>18 your part that it was required to seek a facilities tax</p> <p>19 exemption certificate, right?</p> <p>20 A. I don't know.</p> <p>21 Q. I think you said earlier you're familiar with this</p> <p>22 process generally that some states, the State of</p> <p>23 Michigan issues, at least provides for businesses to</p> <p>24 enter into an agreement and for businesses to apply for</p> <p>25 tax exempt certificates in certain locales, right?</p>	<p>1 makes its own decisions about whether it's going to set</p> <p>2 up shop. There's nothing in this capital society where</p> <p>3 the government or anybody else forces a corporate</p> <p>4 entity to set up shop in one particular location or</p> <p>5 another?</p> <p>6 A. I don't know that.</p> <p>7 Q. Okay. Let's see what you do know. The-- so to close</p> <p>8 on Exhibit 4, the application for-- have you ever</p> <p>9 participated in applying for an IFEC?</p> <p>10 A. The application process, what do you mean? I don't--</p> <p>11 Q. Have you ever assisted a corporate entity, Wacker or</p> <p>12 otherwise, with making application for an industrial</p> <p>13 facilities tax exemption certificate like this one in</p> <p>14 the state of Michigan?</p> <p>15 A. Have I ever built a building and then applied for</p> <p>16 something? No.</p> <p>17 Q. What I'm asking is, Mr. Barnard signed this application</p> <p>18 on behalf of Wacker Corporation, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And I don't think we're getting testy with each other</p> <p>21 yet, but let's get down to basics so we don't get too</p> <p>22 far afield. Have you ever participated like it appears</p> <p>23 Mr. Barnard did in this case in facilitating the</p> <p>24 application on behalf of Wacker for an industrial</p> <p>25 facilities tax exemption certificate? Have you ever</p>
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<p>1 A. Yes.</p> <p>2 Q. And businesses, as a general proposition, the incentive</p> <p>3 for a business to do so is to save some taxes?</p> <p>4 A. No.</p> <p>5 Q. It doesn't?</p> <p>6 A. No.</p> <p>7 Q. So what would be Walker's incentive to prepare an</p> <p>8 application for an industrial facilities exemption</p> <p>9 certificate here?</p> <p>10 A. To reduce the tax that they're having to pay in that</p> <p>11 location.</p> <p>12 Q. How does that differ with the statement I just made?</p> <p>13 A. Because if I move-- if the facility was built 100 miles</p> <p>14 south in Indiana, the tax would be a lot less. So as a</p> <p>15 financial investment evaluation, it didn't save me</p> <p>16 any. It reduced what I had to pay. True savings would</p> <p>17 have been to move somewhere else.</p> <p>18 Q. I suppose when the judge is reviewing this evidence and</p> <p>19 this dialogue, she might have a question, and I do.</p> <p>20 Why didn't Wacker just go down to Indiana then?</p> <p>21 A. I have no idea.</p> <p>22 Q. But nobody forced Wacker to come to Norton Shores and</p> <p>23 set up shop there?</p> <p>24 A. I have no idea.</p> <p>25 Q. You certainly have an idea that Wacker Corporation</p>	<p>1 done such a thing?</p> <p>2 A. No.</p> <p>3 Q. All right. Now, getting to Exhibit 5, let's turn to</p> <p>4 Exhibit 5 and see if we can find more common ground</p> <p>5 there. Let me ask this: I genuinely and I truly-- the</p> <p>6 tax exemption process, to me, is just a basic concept</p> <p>7 where it is in part an inducement to businesses to</p> <p>8 locate in certain municipalities, that the State of</p> <p>9 Michigan provides a statutory scheme that permits a</p> <p>10 business and a municipality to agree to certain things</p> <p>11 that mutually benefit them, right? Business gets to</p> <p>12 apply for a tax exemption, they save some money on</p> <p>13 taxes, and that's an inducement for them to set up shop</p> <p>14 in that municipality and the municipality gets the</p> <p>15 benefit of the business being there and employing</p> <p>16 people and such. That seems to be the basic concept.</p> <p>17 Is that a misstatement, according to your</p> <p>18 understanding?</p> <p>19 A. No.</p> <p>20 Q. So maybe we're not as far afield as I thought we were.</p> <p>21 Let's look at Exhibit 5. Exhibit 5 is the Act 198,</p> <p>22 it's entitled RE: Act 198 Agreement with the City of</p> <p>23 Norton Shores. That's a numeral, 198. It's a two-page</p> <p>24 document. You see on the top of it there, the first</p> <p>25 line, Wacker Corporation is stated there in reference,</p>



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<p>1 parenthetically as the company after that line, right?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Is that a yes?</p> <p>4 A. Yes.</p> <p>5 Q. If you turn the page to 2 of Exhibit 5, the Wacker</p> <p>6 Corporation is the name of the company, and the address</p> <p>7 that's stated there, N, as in Nancy, 92, W, which I</p> <p>8 presume stands for West, 15000 Anthony Avenue,</p> <p>9 Menomonee Falls, Wisconsin 53051 is the location where</p> <p>10 you and I are sitting right now, right?</p> <p>11 A. Correct.</p> <p>12 Q. Then there are a couple witness signatures, and then</p> <p>13 there's the signature line on behalf of Wacker</p> <p>14 Corporation, title, does that say president and CEO?</p> <p>15 What does that say? You gave me Mr. Barnard's title</p> <p>16 earlier. I see CEO very clearly. You earlier</p> <p>17 identified him as chief executive officer.</p> <p>18 A. Yes.</p> <p>19 Q. In any event, it appears that back in November 2007 you</p> <p>20 understand that Mr. Barnard was the chief executive</p> <p>21 officer?</p> <p>22 A. I don't know.</p> <p>23 Q. You don't know? Okay. And would you say that that</p> <p>24 looks like Mr. Barnard signed this agreement, Act 198</p> <p>25 agreement, Deposition Exhibit No. 5?</p>	<p>1 certificate, paren, (FT, close paren, pursuant to Act</p> <p>2 198, Public Act 198 as amended." Did I read that</p> <p>3 correctly?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Now Wacker Corporation is applying for</p> <p>6 something. As a general proposition, if one applies</p> <p>7 for something, it presumes that one doesn't have to do</p> <p>8 that, right? One is seeking something that he or she</p> <p>9 or it may be eligible for, may not be eligible for, but</p> <p>10 in any event, doesn't have to seek it, right?</p> <p>11 MR. KOELZER: Object to foundation.</p> <p>12 THE WITNESS: Not necessarily.</p> <p>13 BY MR. KARAFIA:</p> <p>14 Q. Okay. Can you imagine a situation-- I don't want to</p> <p>15 put you in a bind. It's not that important, frankly,</p> <p>16 Can you imagine a situation where there would be an</p> <p>17 applicant for something where they're required to do</p> <p>18 it?</p> <p>19 A. Oh, yes.</p> <p>20 Q. Let's strike that. Let's go on to the next paragraph.</p> <p>21 Would you read that next paragraph to yourself? Tell</p> <p>22 me when you're done, and up to the colon, the paragraph</p> <p>23 begins, "To encourage the granting." Did you read it?</p> <p>24 A. Yes.</p> <p>25 Q. So there, you would agree with me, that one, the</p>
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<p>1 A. I can't decipher it.</p> <p>2 Q. If you look at Exhibit 4, look at the second page of</p> <p>3 Exhibit 4, would you say those two signatures look the</p> <p>4 same to you?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And this Exhibit 5, this agreement, Act 198</p> <p>7 agreement is dated, at least Mr. Barnard's signature,</p> <p>8 let's presume it's Mr. Barnard's signature for the</p> <p>9 moment, is dated November 1, 2007, right?</p> <p>10 A. Yes.</p> <p>11 Q. And the signature below by or on behalf of the City of</p> <p>12 Norton Shores by the mayor is dated November 12, 2007,</p> <p>13 11 days later, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Exhibit 4, if you go to Exhibit 4, that was an</p> <p>16 application Mr. Barnard, on Page 2, his signature is</p> <p>17 box 15C is dated, just like the signature on the</p> <p>18 agreement is dated November 1, 2007, right?</p> <p>19 A. Yes.</p> <p>20 Q. Let's go back to Page 1, the first page of Exhibit 5.</p> <p>21 It starts off saying Wacker Corporation-- I say starts</p> <p>22 off. The first substantive paragraph starts saying</p> <p>23 "Wacker Corporation, the company, has submitted an</p> <p>24 application to the City of Norton Shores City for the</p> <p>25 granting of an industrial facilities exemption</p>	<p>1 statement is being made by Mr. Barnard, right,</p> <p>2 presuming he signed this on behalf of Wacker</p> <p>3 Corporation? Wacker Corporation is stating to</p> <p>4 encourage the granting of the IFTE, the industrial</p> <p>5 facilities tax exemption certificate? That's probably</p> <p>6 what it says, right?</p> <p>7 A. Yes.</p> <p>8 Q. And it further states, "And in recognition of the</p> <p>9 development the City will be making toward the economic</p> <p>10 growth of the company and thus the community," speaking</p> <p>11 of Wacker Corporation and the community of Norton</p> <p>12 Shores, right?</p> <p>13 A. The City didn't make any investment.</p> <p>14 Q. I'm not asking for an arm chair discussion or argument</p> <p>15 over what may have happened or should have happened or</p> <p>16 could have happened. I'm asking what this agreement is</p> <p>17 saying here in this paragraph. Wacker Corporation is</p> <p>18 saying-- start over. Firstly, "To encourage the</p> <p>19 granting of the IFTE and in recognition of the</p> <p>20 investment the City will be making toward the economic</p> <p>21 growth of the company and thus the community, I hereby</p> <p>22 agree on behalf of the company, colon." Did I read</p> <p>23 that correctly?</p> <p>24 A. Yes.</p> <p>25 Q. I know you didn't sign this, and frankly, Judge Neff</p>



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<p>1 will probably be in a position to take a look at this</p> <p>2 herself and decide what it means. We all look forward</p> <p>3 to that day. Right now I want to ask you some</p> <p>4 questions about it. You signed one of these?</p> <p>5 A. Yes.</p> <p>6 Q. So there are a number of things referenced in</p> <p>7 Paragraphs 1, 2 and 3. For example, Paragraph 1 says,</p> <p>8 "The attached information sheet is an integral part of</p> <p>9 this agreement and outlines the investment the company</p> <p>10 intends to make." Exhibit 5 does not have an attached</p> <p>11 information sheet to it. I understand that. There's</p> <p>12 an information sheet which represents part of the</p> <p>13 agreement and outlines the investment that the company</p> <p>14 intends to make, right? That's what it says there?</p> <p>15 A. Okay.</p> <p>16 Q. If you look back on Exhibit 4 and you go to the third</p> <p>17 page of Exhibit 4. It's a four-page document, the</p> <p>18 third page is captioned information sheet. Do you see</p> <p>19 that?</p> <p>20 A. Yes.</p> <p>21 Q. And the item number 4 below references the value of the</p> <p>22 expansion or improvements, and it says building</p> <p>23 improvements, we already talked about that. It says</p> <p>24 \$7,100,000 and machinery and equipment, \$2,287,000. Do</p> <p>25 you see that?</p>	<p>1 the actual cost for both real and personal property</p> <p>2 acquisitions and sub C, if the number of jobs created</p> <p>3 or total projects cost differ from that described in</p> <p>4 the information sheet, a disclosure explaining the</p> <p>5 variance is required." Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. So the company as part of this agreement is saying it's</p> <p>8 going to provide that information to the City, right?</p> <p>9 A. Yes.</p> <p>10 Q. This, of course, you recognize this, this Act 198</p> <p>11 agreement. Early on in this deposition I asked you</p> <p>12 what a contract is, right? This is a contract, right?</p> <p>13 MR. KOELZER: Just object to the extent it</p> <p>14 calls for a legal conclusion. You can answer if you</p> <p>15 understand it.</p> <p>16 THE WITNESS: From my understanding.</p> <p>17 BY MR. KARAFIA:</p> <p>18 Q. Sure. A contract may be a term of art. This is an</p> <p>19 agreement, right?</p> <p>20 A. Okay.</p> <p>21 Q. Between two parties, right?</p> <p>22 A. Appears to be.</p> <p>23 Q. Two parties being, one, the City of Norton Shores, two,</p> <p>24 being Wacker Corporation, correct?</p> <p>25 A. Yes.</p>
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<p>1 A. I do.</p> <p>2 Q. If we jump ahead to Exhibit 6, look on Exhibit 6, is a</p> <p>3 two-page document, also directed to Christopher</p> <p>4 Barnard, Wacker Corporation on State of Michigan</p> <p>5 Department of Treasury letterhead, dated May 28, 2008,</p> <p>6 lo and behold, it details down as part of the first</p> <p>7 paragraph, there's a colon there, and it lists real</p> <p>8 property, \$7,100,000 and personal property \$2,287,390.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And it matches up to what the information sheet says,</p> <p>12 right?</p> <p>13 A. Yes.</p> <p>14 Q. In Exhibit 4?</p> <p>15 A. Right.</p> <p>16 Q. Okay. Then, so the agreement says-- in Paragraph 2,</p> <p>17 for example, Exhibit 5, the agreement, Paragraph 2</p> <p>18 says, "The company will submit a letter to the City no</p> <p>19 later than January 10 immediately following the second</p> <p>20 year after the issuance of the IFT certifying." Then</p> <p>21 it lists three things, A, B and C, that the company,</p> <p>22 "Wacker Corporation, is going to provide the</p> <p>23 information that the company agrees in this agreement</p> <p>24 to provide to the City in that stated time frame,</p> <p>25 including number of jobs created or retained, sub B,</p>	<p>1 Q. You don't-- if you look through the agreement, take as</p> <p>2 much time as you like, you don't see any reference to</p> <p>3 any third party in there as part of this agreement, do</p> <p>4 you?</p> <p>5 A. That's not necessarily true.</p> <p>6 Q. Pardon me?</p> <p>7 A. That's not necessarily true.</p> <p>8 Q. Please identify where there's a third party reference</p> <p>9 in here as being bound by this agreement.</p> <p>10 A. I see no definition on the applicant.</p> <p>11 Q. Okay. So where in the agreement is there a reference</p> <p>12 to a third party other than-- where in this agreement,</p> <p>13 Exhibit 5, is there a reference to any party other than</p> <p>14 the City of Norton Shores or Wacker Corporation?</p> <p>15 A. Where-- can you repeat the question?</p> <p>16 Q. Yes. I've asked you what I thought was a fairly</p> <p>17 straightforward obvious proposition to me, but there</p> <p>18 are only two parties to this agreement in Exhibit 5,</p> <p>19 City of Norton Shores and Wacker Corporation. I</p> <p>20 believe you said something like not necessarily so.</p> <p>21 I'm asking you where in this agreement do you see any</p> <p>22 reference to any party other than the City of Norton</p> <p>23 Shores and Wacker Corporation?</p> <p>24 A. Point 5.</p> <p>25 Q. Paragraph 5, okay. What party is referenced there?</p>

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<p>1 A. There's a party, I don't know who it is, the applicant.</p> <p>2 Q. So there was a-- there's a third party that was part of</p> <p>3 this agreement?</p> <p>4 A. I don't know.</p> <p>5 Q. Well, when you look at this agreement between Wacker</p> <p>6 Corporation and the City of Norton Shores, those are</p> <p>7 the two entities identified in the preamble, right?</p> <p>8 A. Two of them are identified, yes.</p> <p>9 Q. You're saying that Number 5, the applicant, is some</p> <p>10 ghost third party of some sort?</p> <p>11 A. Could be.</p> <p>12 Q. Okay. When you look at the Deposition Exhibits 4, 5</p> <p>13 and 6 together, look at the Exhibit 4 application for</p> <p>14 industrial facilities tax exemption certificate that</p> <p>15 Mr. Barnard signed on November 1 applying for an IFT</p> <p>16 and you look at the Exhibit 6 with the Department of</p> <p>17 Treasury issuing an IFT referencing that application</p> <p>18 and you look at Exhibit 5 bearing the same date as</p> <p>19 Mr. Barnard's signature on Exhibit 4 on the</p> <p>20 application, the application November 1, the agreement,</p> <p>21 November 1, it appears that there's somebody other than</p> <p>22 or some entity other than Wacker Corporation and the</p> <p>23 City of Norton Shores that's part of this agreement?</p> <p>24 A. I don't know who that is.</p> <p>25 Q. Who?</p>	<p>1 invested seven million dollars in real property and</p> <p>2 additional monies in personal property. You don't know</p> <p>3 that it did?</p> <p>4 A. I don't know that it did. That's what your documents</p> <p>5 show.</p> <p>6 Q. As the-- as formerly the manager of finance or vice</p> <p>7 president of finance in 2013 and during the</p> <p>8 commencement of your position here and now, since 2018</p> <p>9 being chief operating officer, you certainly are</p> <p>10 familiar with Wacker Corporation's business operations</p> <p>11 in the City of Norton Shores, are you not?</p> <p>12 A. Somewhat.</p> <p>13 Q. I mean, you talked with Mr. Meyers and you exchanged</p> <p>14 letters with him over a claim that the City is saying</p> <p>15 that Wacker owes the City about one million dollars in</p> <p>16 back taxes, you certainly did not entertain that call</p> <p>17 and the documents you received and the documents you</p> <p>18 shared with Mr. Snyder as just some fanciful person in</p> <p>19 Norton Shores who is just making things up, right?</p> <p>20 A. Right.</p> <p>21 Q. So looking at Number 5 on Exhibit 5, it says that--</p> <p>22 Number 5 says, quote, "The applicant shall remain</p> <p>23 within the local unit during the period of time for</p> <p>24 which the abatement has been approved. If the</p> <p>25 applicant relocates, substantially reduces employment</p>
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<p>1 A. The applicant.</p> <p>2 Q. Wacker Corporation was the-- I recognize this is</p> <p>3 something that the Wacker Corporation has identified in</p> <p>4 its pleadings as an issue, so let's review that.</p> <p>5 Exhibit 4, the application for the IFT was made by</p> <p>6 Wacker Corporation, right?</p> <p>7 A. Yes.</p> <p>8 Q. In fact, Wacker Corporation is identified as the</p> <p>9 applicant in Exhibit 4, right?</p> <p>10 A. Okay.</p> <p>11 Q. It is, right?</p> <p>12 A. It appears so.</p> <p>13 Q. I mean, no doubt in your mind, even though this</p> <p>14 predates you and you're being cautious about an</p> <p>15 agreement, it's pretty obvious that Wacker Corporation</p> <p>16 back in November of 2007 was applying for a tax</p> <p>17 exemption certificate, right, to set up shop in the</p> <p>18 City of Norton Shores?</p> <p>19 A. Okay.</p> <p>20 Q. Do you agree with that? Do you have any reason to</p> <p>21 disagree with that?</p> <p>22 A. I don't know.</p> <p>23 Q. You don't know if-- okay. All right. You don't know</p> <p>24 that Wacker Corporation opened up its facility in the</p> <p>25 City of Norton Shores in the 2007, 2008 time frame,</p>	<p>1 and/or operations or closes the facility, the applicant</p> <p>2 shall pay to the affected taxing units an amount equal</p> <p>3 to those taxes it would have paid had the abatement not</p> <p>4 been in effect." End paragraph. Did I read correctly?</p> <p>5 A. Yes.</p> <p>6 Q. So this provision, what you're suggesting is that the</p> <p>7 applicant may not be Wacker Corporation who's signing</p> <p>8 this contract?</p> <p>9 A. The company is Wacker Neuson Corporation, yes.</p> <p>10 Q. Are you comfortable with the personal knowledge you</p> <p>11 have to state that Wacker-- looking back on its</p> <p>12 history, do you have any reason to disagree that Wacker</p> <p>13 Corporation was the applicant for an industrial</p> <p>14 facilities exemption certificate back in November of</p> <p>15 2007?</p> <p>16 A. I have no idea.</p> <p>17 Q. Then let's not waste time on that. Did Wacker</p> <p>18 Corporation-- do you have knowledge that Wacker</p> <p>19 Corporation operated a business in the City of Norton</p> <p>20 Shores between the years inclusive 2008 through about</p> <p>21 2018?</p> <p>22 A. Parts of those years, yes.</p> <p>23 Q. Would you agree that Wacker Corporation saved about</p> <p>24 \$950,000 or more in tax abatements?</p> <p>25 A. No.</p>

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1 Q. Over the course of-- you wouldn't agree with that?	1 A. November 28, 2012.
2 A. They didn't save anything.	2 Q. At that point in time-- now, it's my recollection, and
3 Q. So if anybody asserts that Wacker Corporation saved	3 I could be mistaken, that you said you started here in
4 \$950,000 or more in tax abatements or something along	4 2013.
5 those lines over the course of its operation in the	5 A. I was off by a year.
6 City of Norton Shores during those years, it would be a	6 Q. So you were employed at the time you signed this
7 lie?	7 document on behalf of Wacker Corporation?
8 A. I don't know.	8 A. Yes.
9 Q. Well, you just said-- I asked you--	9 Q. And you did sign this document on behalf of Wacker
10 A. It's not a savings.	10 Corporation or on behalf of Wacker Neuson Americas,
11 Q. All right. You don't know back in 2007 when Wacker	11 LLC?
12 Corporation signed this agreement that it intended to	12 A. Correct.
13 stay in the City of Norton Shores for any number of	13 Q. So the first paragraph where you signed there says,
14 years?	14 "Wacker Neuson Production Americas, LLC, the company,
15 A. I don't know.	15 has submitted an application to the City of Norton
16 Q. And I would assert to you that it committed in this	16 Shores City for the granting of: Industrial," and it's
17 contract to stay for at least 12 years. Do you have	17 got a check mark next to this, a couple options, and
18 any reason to disagree with that?	18 the check mark is next to the option that says,
19 A. No.	19 "industrial facilities exemption certificate (IFE)
20 Q. I say "this agreement," I'm holding up Exhibit No. 5,	20 pursuant to Public Act 198." Did I read that
21 the agreement, right?	21 correctly?
22 A. Correct.	22 A. You did.
23 Q. You have no reason to disagree with that?	23 Q. Then it goes on to state things that are contained
24 A. No.	24 similarly in Exhibit 5, I think. So you understood
25 (Exhibit No. 7 was marked for	25 when you signed this that you were signing on behalf of
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1 identification.)	1 Wacker Corporation, right? I say Wacker Corporation,
2 BY MR. KARAFA:	2 on behalf of Wacker Neuson Production, right?
3 Q. I'm handing you, Mr. Gile, Exhibit No. 7. I don't want	3 A. Correct.
4 to spend a whole lot of time on this. What I propose	4 Q. You were authorized to do so, correct?
5 to you is this is just another Act 198 agreement.	5 A. Yes.
6 There were several of them entered into between the	6 Q. And you understood this was an agreement, right?
7 City of Norton Shores and Wacker Corporation. Here's	7 A. Yes.
8 one, Exhibit 7, which is, I would propose essentially	8 Q. You read it before you signed it?
9 identical in substance. There are a couple of	9 A. Yes.
10 differences in form, perhaps. This one at the top has	10 Q. And now, did you participate in the item that's
11 a caption, City of Norton Shores, with the same address	11 referenced there, that you signed this agreement in
12 as Exhibit 5 does. If you'd get Exhibit 5 and put that	12 reference to a submitted application to the City of
13 right next to it, please. So at the top it says in	13 Norton Shores for the granting of an IFE? Did you
14 Exhibit 7, it says R-E: Act 198 and/or 328 agreement	14 participate in the application for the IFE?
15 with the City of Norton Shores?	15 A. No.
16 A. Yes.	16 Q. So the-- what were you agreeing to in Paragraph 6? Let
17 Q. The only difference there regarding the caption in	17 me ask this first before we get to your agreement in
18 Exhibit 5 is that Exhibit 5 only references the Act 198	18 Paragraph 6. If you'd take a look at Paragraph 5 of
19 agreement with the City of Norton Shores?	19 Exhibit 5 and Paragraph 6 of Exhibit 7, and I propose
20 A. Yes.	20 to you that they're virtually the same, just take a
21 Q. Now, the preamble, the first paragraph of Exhibit 7--	21 look and confirm that. Take your time.
22 by the way, Exhibit 7, if you turn to the second page,	22 A. They appear the same.
23 is that your signature on the second page?	23 Q. Okay. Thank you. There's some references of letters
24 A. That's my signature.	24 and such to Exhibit 6 all the time, and when this
25 Q. What's your signature dated?	25 agreement was first entered into back in 2007, it had

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1 5, and the reason being I think, from my review, your  
 2 counsel can take a look at it, the Exhibit 7, the one  
 3 you signed, Paragraph Number 5 is a new paragraph.  
 4 Somewhere along the way Paragraph 5 was added. It  
 5 says, "The company understands that if real and  
 6 personal property taxes are not paid and do not remain  
 7 current, the City has a right to reduce the term or  
 8 revoke the tax abatement." That-- quote-unquote.  
 9 That paragraph, somewhere along the way was added  
 10 after the initial agreement in 2007, which bumped what  
 11 used to be Paragraph 5, was initially Paragraph 5 in  
 12 the, call it the Chris Barnard November 2007 agreement,  
 13 bumped that down one number to Number 6, and it  
 14 remained 6 from that point forward.  
 15 Looking at Number 6, Paragraph 6 of Exhibit No. 7,  
 16 the agreement that you signed, what were you agreeing  
 17 to in Paragraph 6?  
 18 A. It appears that we would stay for a certain amount of  
 19 time until the new applicant moved in.  
 20 Q. Okay. Sorry. Did you say it appears we would stay for  
 21 a certain amount of time?  
 22 MR. KOELZER: I'll object to the extent that  
 23 it's not his full answer.  
 24 BY MR. KARAF: A.  
 25 Q. I just didn't hear the first part of it.

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1 A. For a period of time.  
 2 (Record read.)  
 3 BY MR. KARAF: A.  
 4 Q. You said it appears we would stay for a certain amount  
 5 of time, "We" being Wacker Corporation?  
 6 A. Wacker Neuson Production.  
 7 Q. And what was the certain amount of time you were  
 8 staying for?  
 9 A. It's not defined. At the time I signed this, we were  
 10 still in the building and operating.  
 11 Q. Okay. It does-- it is defined though. It states that  
 12 the applicant shall remain with the local unit during  
 13 the period of time for which the abatement has been  
 14 approved, right?  
 15 A. Okay.  
 16 Q. When you say we, Wacker Neuson Production Americas,  
 17 LLC, we were agreeing to stay for a certain amount of  
 18 time, where is Wacker Neuson Production Americas, LLC  
 19 referenced in Paragraph 6?  
 20 A. It's not.  
 21 Q. I asked you what you agreed to on behalf of Wacker  
 22 Corporation-- when I say Wacker Corporation, I'm  
 23 referring to Wacker and all its various names people  
 24 may reference it, Wacker Corporation, Wacker Neuson. I  
 25 asked you what you were agreeing to on behalf of Wacker

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1 Corporation to do in Paragraph 6, and you said we would  
 2 stay for a certain number of years until the new  
 3 applicant takes over, or something like that.  
 4 A. Yes.  
 5 Q. So where is Wacker Neuson-- how are you committed to  
 6 stay for some period of time in Paragraph 6?  
 7 A. I don't understand the question.  
 8 Q. Well, the term applicant in Paragraph 6, the applicant  
 9 refers to Wacker Neuson.  
 10 A. Okay.  
 11 Q. You're saying we were agreeing to stay, referring to  
 12 the applicant shall remain. That's what you were  
 13 referring to, right?  
 14 A. At that time, yes.  
 15 Q. Okay. There's no-- you're committing in this agreement  
 16 on behalf of Wacker Neuson, in Paragraph 6, you're  
 17 committing that you shall remain with the local unit  
 18 during the period of time-- then it goes on to say,  
 19 right, you're committing on behalf of Wacker Neuson to  
 20 stay for some period of time, correct? In that phrase,  
 21 you're committing-- I'm repeating myself. I'm  
 22 repeating your answer, I think. You're committing on  
 23 behalf of Wacker Neuson to stay for the period,  
 24 whatever that period of time may be.  
 25 A. Okay.

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1 Q. You agree with that?  
 2 A. It appears.  
 3 Q. It appears to me, too. I just wanted to know if it  
 4 appeared that way to you, too. I mean, you signed this  
 5 agreement.  
 6 A. Yes.  
 7 Q. There's-- you made reference earlier to, "Until some  
 8 other applicant takes over."  
 9 A. Yes.  
 10 Q. There's no reference to any other-- there's no  
 11 reference to anything like that happening in Paragraph  
 12 6. I want you to read Paragraph 6 as many times as you  
 13 need to and tell me if there's any reference to any  
 14 agreement between Wacker Neuson and the City of Norton  
 15 Shores as contained in the agreement you signed,  
 16 Exhibit 7, if there's any reference to anything like  
 17 that happening in Exhibit 6.  
 18 A. That's why it's not defined who the applicant is.  
 19 Q. What I'm asking you to do is look at Exhibit 6 and tell  
 20 me where, if you find it.  
 21 A. Exhibit 6?  
 22 Q. I'm sorry, Paragraph 6. Thank you. I'm glad you're  
 23 listening. Paragraph 6, tell me where there's any  
 24 reference to anything that refers to what you just  
 25 referenced some other applicant taking over.



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1 A. That's why it's not defined.	1 signed this?
2 Q. Show me in Paragraph 6 where there's-- what language	2 A. It could have been anybody.
3 there is in there that refers to the prospect of some	3 Q. So on November 28, 2012 when you signed this agreement
4 other applicant taking over Wacker Neuson's spot.	4 committing that the applicant shall remain with the
5 A. Buildings are sold every day.	5 local unit, you're telling Judge Neff that that could
6 Q. I'm not asking what happens every day. I'm asking you,	6 be anybody; that's your position?
7 looking at the agreement you signed, Paragraph 6, tell	7 A. Yes.
8 me where it is in that paragraph-- the paragraph seems	8 Q. All right. Who is Tom Bergy, B-E-R-G-Y?
9 clear to me. Tell me where it's clear otherwise to you	9 (Off the record.)
10 that there is something going on that I don't see.	10 BY MR. KARAFIA:
11 You're making reference to some hypothetical applicant	11 Q. Who is Tom Bergy?
12 taking over Wacker. Where does it state that in	12 A. I believe he's the financial person at TGW.
13 Paragraph 6? What language do you see in Paragraph 6	13 Q. Okay. Do you know, like your name, Giles, is it a soft
14 that--	14 G or a hard G? Bergy or Bergy?
15 A. The applicant.	15 A. I don't know.
16 Q. Who's the applicant?	16 (Exhibit No. 8 was marked for
17 A. Right, who's the applicant?	17 identification.)
18 Q. Pardon me?	18 BY MR. KARAFIA:
19 A. That is what is the question.	19 Q. I'm handing you, Mr. Gile, what has been marked as
20 Q. Who's the applicant? The first two words in Paragraph	20 Exhibit No. 8, which is an e-mail thread, it appears to
21 6 are the applicant. Who is the applicant?	21 me, between Tom Bergy, B-E-R-G-Y, for the court
22 A. The applicant for the IFE.	22 reporter's benefit and yourself, it appears to me.
23 Q. Who is the applicant in this agreement, the one that	23 It's a four-page document. In fact, it's even numbered
24 you signed in 2012?	24 four pages at the bottom, Bates stamped by your
25 A. I didn't sign an agreement for an application. I signed	25 counsel. In the first page there's an e-mail from, at
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1 this agreement.	1 the very top, Tom Bergy, Monday, October 15, 2018, at
2 Q. All right. We're looking at Exhibit 7. That's the	2 4:07 p.m., to you, Ryan Gile; is that true?
3 only one I'm looking at, is the one you signed. Who is	3 A. Yes, correct.
4 the applicant in Paragraph 6?	4 Q. So what was going on there? What was Mr. Bergy
5 A. I don't know who the applicant would be.	5 e-mailing you about on October 15, 2018?
6 Q. You don't know who the applicant would be?	6 A. We were closing the acquisition of the Norton Shores
7 A. No.	7 facility.
8 Q. You didn't earlier state that the applicant was Wacker	8 Q. What was the structure of the sale of that facility?
9 Neuson Production Americas, LLC?	9 How did that work? Lump sum payment or--
10 A. No.	10 A. Yes.
11 Q. So you signed an agreement without-- the reference to	11 Q. What was the amount of sale?
12 the applicant in Paragraph 6 is just meaningless?	12 A. I don't know.
13 A. No. It has lots of meaning.	13 Q. You sold the real property to TGW, correct?
14 Q. It says, "The applicant shall remain with the local	14 A. That's correct.
15 unit during the period of time for which the agreement	15 Q. I say you, I mean Wacker.
16 has been approved." Who is the applicant in Paragraph	16 A. That's correct.
17 6? Who is the City of Norton Shores and Wacker Neuson	17 Q. Was there personal property that Wacker took out of the
18 Production Americas agreeing shall remain with the	18 facility and kept for itself?
19 local unit?	19 A. There was some.
20 A. TGW now.	20 Q. Some items were identified by TGW as something they
21 Q. So when you signed this in November 28, 2012, you	21 were interested in, and Wacker made an agreement you
22 contemplated that TGW was going to take over for Wacker	22 can have it for X amount of dollars?
23 Corporation in 2018?	23 A. Yes.
24 A. No, for sure not.	24 Q. In any event, Wacker sold the property. Do you know--
25 Q. Who is the applicant, if not TGW, in Paragraph 6 as you	25 did you take a loss on the sale relative to the



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1 investment?  
 2 A. Yes.  
 3 Q. And what was the reason for moving out of Norton  
 4 Shores?  
 5 A. Excess production capacity.  
 6 Q. What does that mean? I don't know what that means.  
 7 A. Too much facility space, not enough production to fill  
 8 up the space and absorb the facility costs.  
 9 Q. So Norton Shores wasn't-- what do you call it, a  
 10 division?  
 11 A. A location.  
 12 Q. That location was not turning a profit, in my simple  
 13 mind's approach? The question was it turning a profit,  
 14 the gross revenue, less cost and expenses was a loss or  
 15 something?  
 16 A. Wacker Neuson Production Americas was losing money.  
 17 Q. That's who you referred to earlier on in this  
 18 deposition about the overall corporate entity is how  
 19 you base that profit and loss balance, right?  
 20 A. Correct.  
 21 Q. Not on some individual location, correct?  
 22 A. Correct.  
 23 Q. Norton Shores in fact was doing quite well? In terms  
 24 of contributing to the corporate mother ship, Norton  
 25 Shores was doing quite well?

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1 A. No.  
 2 Q. Okay. So getting back to the e-mail in Exhibit No. 8  
 3 here, you were closing. That's what he was writing to  
 4 you about. You said the transfer-- Tom Bergy wrote to  
 5 you that the transfer was approved. What was he  
 6 talking about?  
 7 A. The tax abatement program.  
 8 Q. And as well as a new application for our addition to  
 9 the office space within the building, what was he  
 10 referring to?  
 11 A. I have no idea.  
 12 Q. You don't know what he's talking about there?  
 13 A. No.  
 14 Q. It sounds to me like he's talking about the application  
 15 for-- a new application for a tax exemption certificate  
 16 relative to addition to office space within the  
 17 building, but you don't know if that's what he's  
 18 talking about?  
 19 A. I don't know.  
 20 Q. Because I think earlier you said you don't really know  
 21 much, if anything, about applying for an industrial  
 22 facilities tax exemption?  
 23 A. Correct.  
 24 Q. Now, down below, October 15, it looks like about 15  
 25 minutes before Mr. Bergy's responsive e-mail at the top

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1 of Exhibit 8, you wrote to Bergy, and you simply asked  
 2 him a question, "Can you tell us if you were successful  
 3 in getting into the tax abatement program?"  
 4 A. Yes.  
 5 Q. Why would you even try to get into the tax abatement  
 6 program?  
 7 A. Why what?  
 8 Q. Why would TGW be interested in getting into the tax  
 9 abatement program?  
 10 MR. KOELZER: Object to foundation.  
 11 THE WITNESS: I have no idea.  
 12 BY MR. KARAF: A.  
 13 Q. Well, maybe in talking to Bergy, you apparently had  
 14 some discussions with him because as of October 15 at  
 15 3:52 p.m. you were asking him if he was successful in  
 16 doing so.  
 17 A. Yes.  
 18 Q. What was your interest-- when did you sell the  
 19 property? When did Wacker sell the property to TGW?  
 20 A. It would have been right around that time. I don't  
 21 know the exact date.  
 22 Q. What was your interest in knowing whether he was  
 23 successful in getting into the tax abatement program?  
 24 A. So this deal came to us because our majority  
 25 shareholder is an Austrian fellow, and he knows the

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1 owner of TOW in Austria, so we were told to make the  
 2 transaction as nice as possible, and so we wanted to  
 3 provide as much assistance as we could to make it a  
 4 very clean transaction because the two gentlemen that  
 5 owned the two corporations are buddies and Austria is  
 6 not a big country, so everybody knows everybody. So  
 7 the discussions and everything was to make it as clean  
 8 and smooth and simple as possible and offer as much  
 9 help as we could so that when he talks to his bosses in  
 10 Austria and they say it went well, we at least have a  
 11 good light the next time I have to speak with the  
 12 gentleman who is the majority shareholder of our  
 13 company.  
 14 Q. Okay. Thank you for that explanation. The Austrian  
 15 head honcho knows the owner or one of the controlling  
 16 agents in TGW? They're friends or something and they  
 17 put that deal together. You're helping make it a  
 18 smooth transition?  
 19 A. Correct.  
 20 Q. So what did the tax abatement program, as you referred  
 21 to it in your e-mail, how did that play into your  
 22 objective of making this a smooth transition for TGW?  
 23 A. He had already purchased the building, so he would be  
 24 required to pay a tax amount. If I can help out a  
 25 fellow Austrian company by not paying as much in taxes,

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<p>1 then we were going to help them out.</p> <p>2 Q. So TGW is an Austrian-- you probably already explained</p> <p>3 that. Maybe I missed that.</p> <p>4 A. Yes, and we are a half-Austrian, half-German company.</p> <p>5 Our majority, biggest shareholder is an Austrian</p> <p>6 fellow.</p> <p>7 Q. So the tax abatement program, as you referred to it,</p> <p>8 was just one of the things that served to assist TGW</p> <p>9 because it was a benefit to TGW?</p> <p>10 A. Correct.</p> <p>11 Q. If you go back-- let's see. If you go down to the</p> <p>12 third page, really the fourth page, it seems to have</p> <p>13 your address and contact information on it. The last</p> <p>14 page has your-- it doesn't have your name, but it has</p> <p>15 your contact information, e-mail, mobile number. Go to</p> <p>16 the third page and look down at the bottom, the Friday</p> <p>17 April 27, 2018 e-mail from you to Tom Bergy. This is</p> <p>18 many months before the October e-mail, obviously. It</p> <p>19 looks like you were introducing yourself to Mr. Bergy?</p> <p>20 A. Yes.</p> <p>21 Q. You're vice president of finance at Wacker, and you</p> <p>22 want to reach out and provide contact, and consistent</p> <p>23 with what you just got done explaining, you're reaching</p> <p>24 out perhaps after talking to whomever in Austria,</p> <p>25 you're letting Mr. Bergy know you're here to help?</p>	<p>1 over here to Wisconsin to take its place?</p> <p>2 A. No.</p> <p>3 Q. I'm going to ask you, looking at a note of mine, that</p> <p>4 at some point you had a discussion with Mark Meyers,</p> <p>5 the administrator of Norton Shores, in September, in</p> <p>6 fact, September 27, 2010, which would have been about,</p> <p>7 I don't know, a month before, a few weeks before your</p> <p>8 e-mail exchange, a few weeks before with your closing</p> <p>9 on the TGW deal, September 27, 2018?</p> <p>10 A. Okay.</p> <p>11 Q. I would expect Mr. Meyers to make reference to a</p> <p>12 conversation he had with you where you explained the</p> <p>13 very thing you did today, Austrian parent made the TGW</p> <p>14 deal without North America input, they knew the owners</p> <p>15 of TGW?</p> <p>16 A. That's correct.</p> <p>17 Q. The German plant pulled the product line from the</p> <p>18 Wisconsin plant which creates unprofitability and</p> <p>19 excess capacity there?</p> <p>20 A. That's one of the factors there.</p> <p>21 Q. They're moving Michigan production to Wisconsin, is</p> <p>22 that right? That's what happened?</p> <p>23 A. No, that's not all of it. That happened but it's not</p> <p>24 relevant why.</p> <p>25 Q. Then do you remember having this conversation with</p>
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<p>1 A. Correct.</p> <p>2 Q. Then in the second paragraph you say, "One other item</p> <p>3 you may not be aware of is the property TGW is buying</p> <p>4 was approved for a significant tax abatement," right,</p> <p>5 you say that?</p> <p>6 A. Yes.</p> <p>7 Q. You say, "We have saved nearly \$950,000 over the past</p> <p>8 ten years," right?</p> <p>9 A. Yes.</p> <p>10 Q. Then you let him know that there's still two years left</p> <p>11 on the abatement program which your company might be</p> <p>12 eligible for, right?</p> <p>13 A. Yes.</p> <p>14 Q. So it's telling him that his eligibility for it as an</p> <p>15 applicant may be to his benefit, TGW's benefit, if</p> <p>16 they're found to be approved for this program, right?</p> <p>17 A. Okay.</p> <p>18 Q. And getting back to your sentence, the statement you</p> <p>19 say, "We have saved nearly \$950,000 over the past ten</p> <p>20 years." Who are you talking about there? You're</p> <p>21 talking about Wacker, right?</p> <p>22 A. Correct.</p> <p>23 Q. The-- didn't Wacker pull a Wisconsin production line</p> <p>24 because it was non-profitable and move the Norton</p> <p>25 Shores operations, not the facility, the operations</p>	<p>1 Mr. Meyers?</p> <p>2 A. Yes.</p> <p>3 Q. There's a reference to a Wisconsin product moved</p> <p>4 because of taxes, 40 percent in U.S., 20 percent in</p> <p>5 Germany?</p> <p>6 A. That's exactly what happened.</p> <p>7 Q. Do you know who Leslie Gunia is, G-U-N-I-A?</p> <p>8 A. I've seen the name. I don't know exactly who she is.</p> <p>9 Q. Now, there was-- were you aware of a retention visit</p> <p>10 back in October of 2017 involving Mark Meyers, Bill</p> <p>11 Kratz, Darryl Todd of Michigan Area First and Lezleigh</p> <p>12 Gunia, L-E-Z-L-E-I-G-H. Her e-mail is</p> <p>13 lezleigh.gunia@wackerneuson.com, or it was then. Were</p> <p>14 you aware of a retention visit involving all those</p> <p>15 people?</p> <p>16 A. No.</p> <p>17 Q. Do you know what position Lezleigh Gunia occupied on</p> <p>18 behalf of Wacker Neuson Corporation back then in</p> <p>19 October 2017?</p> <p>20 A. Some production supervisory role.</p> <p>21 Q. In Norton Shores area, Michigan?</p> <p>22 A. Yes.</p> <p>23 Q. There's an e-mail--</p> <p>24 (Exhibit No. 9 was marked for</p> <p>25 identification.)</p>

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1 BY MR. KARAF:   
 2 Q. Showing you what has been marked as Exhibit No. 9.   
 3 This is a short e-mail. There may be some others   
 4 related to this. This is-- have you ever-- Exhibit 9   
 5 appears to be an e-mail from Catherine Brubaker-Clarke,   
 6 who at the time was affiliated with Muskegon Area   
 7 First. The e-mail address is identified up there. Do   
 8 you know Ms. Brubaker-Clarke? Did you ever talk with   
 9 her at all?   
 10 A. No.   
 11 Q. So on Thursday October 26, 2017, a year before the sale   
 12 to-- between the friends of Wacker-- owned by Wacker   
 13 Corp and T&W, a number of people met together, it   
 14 appears from this e-mail. I'm saying these things to   
 15 see if you know anything about this.   
 16 Ms. Brubaker-Clarke says "Hello, Lezleigh. Mark, Bill,   
 17 Darryl and I enjoyed meeting with you and Mike   
 18 yesterday. Congratulations on 2017 being your best   
 19 year." Let's stop there. That can mean a number of   
 20 things, I suppose, best year playing tennis or   
 21 whatever, but I propose, my understanding is that means   
 22 your best year, Wacker Neuson and Norton Shores had its   
 23 best year, and there were a lot of reasons discussed   
 24 for that. Having said that, I'm going to ask you,   
 25 you're the CEO-- you're the chief executive officer

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1 now. Before you were--   
 2 A. Chief operating officer.   
 3 Q. Thank you. You got your finger on the pulse of this   
 4 corporate entity and its structure, and back then you   
 5 were in the accounting division. You look back at it,   
 6 I asked you a bit about that earlier. Norton Shores   
 7 was doing well in its production facility?   
 8 A. No, no, those years it wasn't.   
 9 Q. 2017, it wasn't?   
 10 A. Not a chance. The production products produced in   
 11 Norton Shores are heaters and light towers primarily   
 12 used in the oil and gas fracking industry in the   
 13 north. Heaters from frack sites and to warm the frack   
 14 tanks. Light towers because it gets dark really early   
 15 in northern Canada. The fracking was done in '14.   
 16 This business was crashing.   
 17 Q. So the Norton Shores facility was not doing well?   
 18 A. No. All of Production North America was not doing well   
 19 and Norton Shores' specific products were actually on   
 20 the down slope. She knew nothing of what she was   
 21 talking about.   
 22 Q. Okay. I don't think that whether it's doing well,   
 23 great or doing horribly makes a hill of beans of   
 24 difference in this case.   
 25 A. I would agree.

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1 Q. But it's been raised as an issue that there's some   
 2 kind-- to the extent that business was going bad for   
 3 Wacker Neuson, I paraphrase, Wacker Neuson's position   
 4 in some pleadings or something, it had the option to   
 5 pull out of the agreement in the case.   
 6 A. I didn't understand what you were saying.   
 7 Q. Well, I'm not going to get into that. I wanted to ask   
 8 you if you knew anything about this.   
 9 A. No.   
 10 Q. Because that issue was raised by Wacker Neuson in some   
 11 references and pleadings here about the proposition   
 12 that, you know, to paraphrase, Wacker Neuson, I'm sure   
 13 counsel will object to my characterization of it, but   
 14 at the risk of oversimplifying it, Norton Shores says   
 15 we had an agreement pursuant to statute, pursuant to an   
 16 agreement between us, Act 198 agreement. Wacker--   
 17 committed to staying for at least 12 years. It was   
 18 getting the tax abatement benefits and it left early.   
 19 It left before the expiration of 12 years, that simple.   
 20 The agreements provide for the recoupment of those   
 21 taxes that Wacker Neuson would have paid had it not had   
 22 the benefit of the tax abatement agreement and the   
 23 IFTC, that it owes that amount. Wacker's response   
 24 partly is, well, it depends if we weren't doing well in   
 25 business, we could get out of the agreement. I'm

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1 looking to see where in the agreement it says that,   
 2 A. I never made that claim.   
 3 MR. KOELZER: Object to the extent it   
 4 mischaracterizes the allegations of the complaint.   
 5 MR. KARAF: That's fine. We're done. Thank   
 6 you.   
 7 MR. KOELZER: I just have a couple cleanup   
 8 questions.   
 9 EXAMINATION   
 10 BY MR. KOELZER:   
 11 Q. I just want to refer you back to Exhibit 7, if you   
 12 would, Mr. Gile, and this was the Act 198 agreement   
 13 that you signed in 2012. It's not the one at issue in   
 14 the case, but counsel asked you about your   
 15 understanding of this agreement. Do you remember that   
 16 line of questioning?   
 17 A. Yes.   
 18 Q. And he specifically asked you about Paragraph 6 there   
 19 and asked whether that was, Wacker Neuson was making an   
 20 agreement to stay in the location, and I believe you   
 21 answered something, yes, Wacker agreed to stay until   
 22 another applicant came in. Do you remember that line   
 23 of questioning?   
 24 A. Yes.   
 25 Q. In support of your answer, you pointed out that Wacker

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1 Neuson Production Americas, LLC is defined as the	1 in fact apply for a transfer of the certificate at
2 company in the agreement; is that correct?	2 issue?
3 A. Yes.	3 A. Yes.
4 Q. And so at the top of the agreement there under the Re:	4 MR. KOELZER: That's all I have. Thank you.
5 line, it says, "Wacker Neuson Production Americas, LLC,	5 MR. KARAF: I have some follow-up questions.
6 (The Company)" in capital letters. Do you see that?	6 FURTHER EXAMINATION
7 A. Yes.	7 BY MR. KARAF:
8 Q. Is that what you were referring to when you were saying	8 Q. Looking at Exhibit 7, counsel says that Wacker Neuson
9 the company as defined in this agreement?	9 is defined as the company. There's a parenthetical
10 A. Yes.	10 reference to the company for purposes of convenient
11 Q. And I believe in support of your answer you pointed out	11 reference throughout this agreement, right?
12 that the word applicant isn't defined anywhere in this	12 A. Okay.
13 agreement; that was your understanding?	13 Q. Do you see that?
14 A. That's my understanding.	14 A. I do see that.
15 Q. Okay. You see the word company with a capital C is	15 Q. Now, in that first line there, the first paragraph,
16 used throughout this agreement. Do you agree with	16 "The company has submitted an application." It says
17 that?	17 that, right?
18 A. Yes.	18 A. Yes, it does.
19 Q. So as part of your answer to Mr. Karafa's question	19 Q. And it says, "The company has submitted an application
20 about whether it was Wacker Neuson or somebody else	20 to the City of Norton Shores, the City, for the
21 that was required to be there, is the use of the word	21 granting of an industrial facilities exemption
22 applicant rather than the defined term company in that	22 certificate," right?
23 Paragraph 6?	23 A. Yes.
24 MR. KARAF: Object to the form of the	24 Q. Okay. So the company was an applicant, as referenced
25 question.	25 in this agreement, agreed?
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1 THE WITNESS: Yes.	1 A. At that time, on November 29, 2012, it was.
2 BY MR. KOELZER:	2 Q. Yes. And so-- and then that coincides-- that first
3 Q. And it's part of your understanding then that the word	3 paragraph coincides with that reference in Paragraph 6
4 company as it's used in this agreement, you understand	4 below with the applicant at that time?
5 that that always applies to Wacker Neuson Production	5 A. At that time.
6 Americas, LLC? Is that how you read the agreement?	6 Q. Okay. So Mr. Koelzer asked you that your understanding
7 A. Yes.	7 of the applicant was that it can-- although at the time
8 Q. Is it your understanding that because there's no	8 of this agreement, the applicant was Wacker Neuson, you
9 particular company assigned with the word applicant,	9 understood that the applicant can change. I think
10 that the meaning of that word could possibly change	10 somehow that was his question and answer that I derived
11 over time, whereas the word company is static?	11 from that, right?
12 MR. KOELZER: I'm going to object to form,	12 A. Yes.
13 leading, argumentative.	13 Q. Tell me where in this agreement at the time does it
14 THE WITNESS: That's correct.	14 refer to the applicant changing? Tell me where it says
15 BY MR. KOELZER:	15 that in this agreement, anywhere in this agreement.
16 Q. Is it your understanding in this agreement that the use	16 A. It implies it.
17 of the term applicant could change over time?	17 Q. We'll get into the implication. Tell me where it says
18 A. Yes.	18 it.
19 Q. And is one way that that term could change because the	19 A. I don't know.
20 certificate was transferred to a company that applied	20 Q. All right. You signed it, and you don't know. Tell me
21 for a transfer of that certificate?	21 where you were say it implies it.
22 MR. KARAF: Same objection.	22 A. Because the applicant is defined. The applicant
23 THE WITNESS: Yes.	23 changes. The facility never moves. The applicant
24 BY MR. KOELZER:	24 moves into the facility and takes over the facility.
25 Q. And in this case is it your understanding that TGW did	25 Q. Okay. You look at the second page of Exhibit 7,



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1 there's one paragraph on the second page of Exhibit 7  
 2 that says, by the signatures below-- let me repeat  
 3 that, make sure you got this right. "By the signatures  
 4 below, representatives of both the company and the City  
 5 acknowledge their responsibilities toward the  
 6 successful completion of the project." Did I read that  
 7 correctly?  
 8 A. You did.  
 9 Q. The second sentence, "It is understood certain economic  
 10 conditions may delay or even prohibit the maintenance  
 11 of the company's goals." Did I read that correctly?  
 12 A. Yes.  
 13 Q. Third sentence, "Prior to any City action concerning  
 14 the reduction or revocation of a tax abatement, or  
 15 recapture of abated taxes, the company will have the  
 16 right to a public hearing before the City council."  
 17 That's the end of the paragraph. Did I read that  
 18 correctly?  
 19 A. Yes.  
 20 Q. Now, the prospect of recovering or recapturing abated  
 21 taxes is referenced in Paragraph 6, the page before, is  
 22 it not?  
 23 A. Yes.  
 24 Q. All right.  
 25 MR. KARAFA: Thank you. Nothing further.

1 STATE OF WISCONSIN )  
 2 ) ss.  
 3 COUNTY OF WALWORTH )  
 4  
 5  
 6 I, SHEILA K. FAIRCHILD, a Notary Public in  
 7 and for the State of Wisconsin, do hereby certify that  
 8 I have carefully compared the foregoing pages with my  
 9 stenographic notes, and that the same is a true and  
 10 correct transcript.  
 11  
 12 I further certify that I am not a relative or  
 13 employee or attorney or counsel of any of the parties,  
 14 or a relative or employee of such attorney or counsel,  
 15 or financially interested directly or indirectly in  
 16 said action.  
 17  
 18 Dated at Walworth, Wisconsin, this 3rd day of  
 19 December, 2019.  
 20  
 21  
 22 Notary Public  
 23 In and for the State of Wisconsin  
 24 My Commission expires: April 2, 2021  
 25

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1 MR. KOELZER: Nothing else for me.  
 2 (Proceedings concluded at 1:15 p.m.)  
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## \$1,000 - agents

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43:9	15 [7] 2:10 88:1	3:18 11:6 11:13	81:11 81:11	access [1] 15:12
\$100,000 [1] 50:21	88:5 90:24 90:24	13:1 27:14 27:19	52 [4] 3:20 3:20	according [1] 64:17
\$15,000 [2] 38:11	91:14 106:2	28:17 29:23 34:7	3:21 91:15	accordingly [1] 6:20
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\$15,596.71 [1] 37:17	49:3	39:5 39:18 40:18	65:9	accounting [15] 8:6
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70:8	15A [3] 53:18 54:8	76:21 86:23 88:1	73:13 73:16 80:16	15:17 17:1 17:2
\$500,000 [1] 57:3	54:19	88:5 93:17 95:9	80:18 80:19 80:24	17:10 26:6 32:16
\$66,594.29 [1] 40:15	15B [2] 54:7 54:19	2019 [9] 1:13 2:9	81:13 81:14 81:15	49:1 98:5
\$7,100,000 [3] 55:23	15C [1] 66:17	38:1 39:3 39:10	81:15 81:17 82:19	accrual [3] 32:1
69:24 70:8	16 [3] 39:3 39:10	40:25 42:15 45:16	83:1 83:6 83:8	32:2 32:4
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